impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications, because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that is both economically significant, as defined under Executive Order 12866, and concerns an environmental health or safety risk that EPA has reson to believe may have a disproportionate effect on children. This rule is not subject to Executive Order 13045 because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 12, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Volatile organic compounds.

Authority: 42 U.S.C.7401–7671q.

Dated: November 28, 2001.

Bertram C. Frey,

Acting Regional Administrator, Region 5.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(104) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(104) A revision to the Wisconsin State Implementation Plan for ozone was submitted on February 1, 2001. It contained revisions to the state's regulations that control volatile organic compound emissions from automobile refinishing operations. A portion of these regulations were renumbered and submitted on July 21, 2001.

(i) Incorporation by reference. The following sections of the Wisconsin Administrative code are incorporated by reference.

(A) NR 406.04 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(B) NR 407.03 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(C) NR 419.02 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(D) NR 422.095 as published in the (Wisconsin) Register August, 2001, No. 548, effective September 1, 2001.

(E) NR 484.10 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

[FR Doc. 01–30814 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0045; CO–001–0046; CO–001–0047; CO–001–0052; CO–001–0053; CO49–1–7187; CO–001–0061; CO–001–0062; CO–001–0064 FRL–7117–4]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver Carbon Monoxide Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 22, 2001, EPA published a notice of proposed rulemaking (NPR) to propose approval of the State of Colorado's request to redesignate the Denver-Boulder metropolitan (hereafter, Denver) ''serious'' carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). In that NPR, EPA proposed to approve the CO maintenance plan for the Denver area and the additional State Implementation

Plan elements involving revisions to Colorado's Regulation No. 11 ''Motor Vehicle Emissions Inspection Program'', Colorado's Regulation No. 13 ''Oxygenated Fuels Program'', and the Governor's May 7, 2001, submittal of a SIP revision (''United States Postal Service (USPS) revision'') that is intended to be a substitute for a Clean Fuel Fleet Program.

In this action, EPA is approving the Denver CO redesignation request, the maintenance plan, the revisions to Regulation No. 11 and Regulation No. 13, the USPS revision and the CO transportation conformity budgets.

EFFECTIVE DATE: January 14, 2002.

ADDRESSES: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; and,

United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at:Colorado Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado, 880246–1530.

FOR FURTHER INFORMATION CONTACT: For questions concerning the Denver CO redesignation, contact Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466,Telephone number: (303) 312–6479.

For questions regarding the Regulation No. 11, Regulation No. 13, and the U.S. Postal Service revisions, contact Kerri Fiedler, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, Telephone number: (303) 312–6493.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean the Environmental Protection Agency.

I. What Is the Purpose of This Action?

On August 22, 2001, we published a NPR that proposed approval of the Denver CO redesignation request, maintenance plan, and associated SIP elements. See 66 FR 44097. The NPR also opened a 30-day public comment period on this proposed Agency action. We did not receive any comments.

In this final action, we are approving the change in the legal designation of the Denver area from nonattainment to attainment for the CO NAAQS (hereafter referred to as ''CO NAAQS'' or ''CO standard''), we're approving the maintenance plan that is designed to keep the area in attainment for CO for the next 12 years, we're approving the changes to the State's Regulation No. 11 for the implementation of motor vehicle emissions inspections, we're approving the changes to the State's Regulation No. 13 for the implementation of the wintertime oxygenated fuels program, and we've approving of the USPS revision that requires the destruction, relocation, and replacement with cleaner vehicles of certain USPS vehicles, as a substitute for a Clean Fuel Fleet Program for the Denver metropolitan area. We are also approving the CO transportation conformity budgets.

We originally designated Denver as nonattainment for CO under the provisions of the 1977 CAA Amendments (see 43 FR 8962, March 3, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the Clean Air Act (CAA), we designated the Denver area as nonattainment for CO because the area had been designated as nonattainment before November 15, 1990. Under section 186 of the CAA, Denver was originally classified as a ''moderate'' CO nonattainment area with a design value greater than 12.7 parts per million (ppm), and was required to attain the CO NAAQS by December 31, 1995. See 56 FR 56694, November 6, 1991. The Denver area, however, violated the CO NAAQS in 1995. With our final rule of March 10, 1997 (62 FR 10690), we approved the State's 1994 State Implementation Plan (SIP) submittal and bumped-up the Denver area to a ''serious'' CO nonattainment classification. Further information regarding these classifications and the accompanying requirements are described in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.'' See 57 FR 13498, April 16, 1992.

Under the CAA, we can change designations if acceptable data are available and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) the Administrator determines that the area has attained the national ambient air quality standard;

(ii) the Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

Before we can approve the redesignation request, we must decide that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur simultaneously with final approval of the redesignation request. That's why we are also approving the revisions to Regulation No. 11, Regulation No. 13, and the USPS revision.

II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a State to us.

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the Denver CO redesignation request, the maintenance plan, the revisions to Regulation No. 11, and the revisions to Regulation No. 13 on January 10, 2000. The AQCC adopted the redesignation request, maintenance plan, and revisions to Regulation No. 11 and Regulation No. 13 directly after the hearing. These SIP revisions became State effective March 1, 2000, and were

submitted by the Governor to us on May 10, 2000.

We have evaluated the Governor's submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V and determined that the Governor's submittal was administratively and technically complete. Our completeness determination was sent on August 7, 2000, through a letter from Rebecca W. Hanmer, Acting Regional Administrator, to Governor Bill Owens.

For the USPS revision, the Colorado AQCC held a public hearing on March 16, 2000. The AQCC adopted the USPS revisions directly after the hearing. The USPS revision became State effective May 30, 2000, and was submitted by the Governor to us on May 7, 2001. On May 30, 2001, the Colorado Attorney General's Office submitted administrative corrections to the USPS revision to us.

We have evaluated the Governor's submittal of the USPS revision and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V and determined that the Governor's submittal, with the subsequent administrative corrections provided by the State's Attorney General's office, was administratively and technically complete. Our completeness determination was sent on June 15, 2001, through a letter from Jack W. McGraw, Acting Regional Administrator, to Governor Bill Owens.

III. EPA's Evaluation of the Denver Redesignation Request and Maintenance Plan

We have reviewed the Denver CO redesignation request and maintenance plan and believe that approval of the request is warranted. With our August 22, 2001, NPR (see 66 FR 44097), we solicited public comments on these materials and the additional SIP elements. We did not receive any public comments. We have determined that all required SIP elements, including the maintenance plan, have either been approved or will be fully approved with this final rule, that the area has attained the NAAQS for the CO standard, and that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the implementation of the applicable implementation plan, applicable Federal air pollutant control regulations, and other permanent and enforceable reductions. Thus, with the Governor's submittals of May 10, 2000, and May 7, 2001, the five criteria in section 107(d)(3)(E) of the Clean Air Act (CAA) have been met and approval of the redesignation request is warranted.

Detailed descriptions of how the section 107(d)(3)(E) requirements have been met area provided in our August 22, 2001, NPR for this action (see 66 FR 44097) and, for the most part, will not be repeated here. Our discussion below takes into account our prior evaluation presented in our August 22, 2001, NPR and provides further emphasis regarding the maintenance plan and the additional SIP elements.

As stated above, section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation.

In this **Federal Register** action, we are approving the State of Colorado's maintenance plan for the Denver CO nonattainment area because we have determined, as detailed below, that the State's maintenance plan submittal of May 10, 2000, meets the requirements of section 175A and is consistent with EPA interpretations of the CAA section 175A of the CAA and our September 4, 1992, policy memorandum.[1] Our analysis of the pertinent maintenance plan requirements, was fully described in our August 22, 2001, proposed rule (see 66 FR 44097) and is restated, in part, with particular reference to the Governor's May 10, 2000, submittal:

(a) Emissions Inventories—Attainment Year and Projections

Under our interpretations, areas seeking to redesignate to attainment for CO may demonstrate future maintenance of the CO NAAQS either by showing that future CO emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. However, under the CAA, many areas (such as Denver) were required to submit a modeled attainment demonstration to show that reductions in emissions would be sufficient to attain the applicable NAAQS. For these areas, the maintenance demonstration is to be based on the same level of modeling (see the September 4, 1992, Calcagni Memorandum). For the Denver area, this involved the use of EPA's Urban Airshed Model (UAM) in conjunction with intersection Hotspot modeling using the CAL3QHC model (see 62 FR 10690, March 10, 1997).

The maintenance plan that the Governor submitted on May 10, 2000, included comprehensive inventories of CO emissions for the Denver area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State used the 2001 attainment year inventory, from the March 10, 1997, EPA-approved attainment SIP (see 62 FR 10690) and included an interim-year projection for 2006 along with the final maintenance year of 2013. Additional mobile source emission inventories were provided for the years 2002, 2003, 2004, and 2005. These particular mobile source inventories present CO emissions during the phase-in period of the revisions to Regulation No. 11 for the Remote Sensing Device (RSD) program, the phase-in of more stringent cutpoints for the motor vehicle enhanced Inspection and Maintenance, or I/M240, program, and the phase-down of the oxygenated gasoline program under the revisions to Regulation No. 13. More detailed descriptions of the 2001 attainment year inventory from the approved nonattainment SIP for Denver, the 2006 projected inventory, the 2013 projected inventory, and the 2002, 2003,

[1] EPA issued maintenance plan interpretations in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992), ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental'' (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992.

2004, and 2005 mobile source projected inventories are documented in the maintenance plan in Part II, Chapter 4, section B, and in the State's TSD. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures from the 2001 attainment year and the interim projected years are provided in Table III.–1 below.

TABLE III–1.—SUMMARY OF CO EMISSIONS IN TONS PER DAY FOR DENVER

	2001	2002	2003	2004	2005	2006	2013
Point Sources	70.2	.....	.....	.....	.....	46.7	46.7
Area Sources	198.2	.....	.....	.....	.....	172.8	172.6
Non-Road Mobile Sources	59.9	.....	.....	.....	.....	61.2	64.9
On-Road Mobile Sources	*875.2	*851	*850	*827	*850	*844.7	*867.2
Total	*1203.3	.....	.....	.....	.....	*1125.4	*1151.4

*These figures represent CO emissions for the Denver CO modeling domain which is slightly larger than the Denver CO nonattainment area.

We note in Table III–1 there are significant reductions projected in years 2006 and 2013 for point sources and area sources. The majority of the area source projected reductions are from the State's estimates for less woodburning in future years. We believe this projection of less woodburning is reasonable. For point sources, the original Denver CO nonattainment plan modeled all point sources at their potential-to-emit (PTE) for 2001, and Table III–1 retains these values for 2001. For years 2006 and 2013, the State projected emissions for elevated point sources at PTE, but projected emissions from surface point sources based on actual emissions. This accounts for the reduction in emissions from point sources in 2006 and 2013. The State's approach follows EPA guidance on projected emissions and we believe it is acceptable.[2] Further information on these projected emissions may also be found in Section 2 ''Emission Inventories'' of the State's TSD.

(b) Demonstration of Maintenance

The September 4, 1992, Calcagni Memorandum states that where modeling was relied on to demonstrate maintenance, the plan is to contain a summary of the air quality concentrations expected to result from the application of the control strategies. Also, the plan is to identify and describe the dispersion model or other air quality model used to project ambient concentrations.

For the Denver CO redesignation maintenance demonstration, the State used the Urban Airshed dispersion Model (UAM) in conjunction with concentrations derived from the CAL3QHC intersection (or ''hotspot'') model. This was the same level of modeling as was used for the 1994 Denver CO SIP attainment demonstration, which was approved by EPA on March 10, 1997 (62 FR 10690), and addressed the requirements of section 187(a)(7) of the CAA. The UAM and CAL3QHC models were applied to the 2006 and 2013 inventories using meteorological data from December 5, 1988. This was the episode day used in the modeling in the EPA-approved 1994 Denver CO nonattainment SIP revision and was thought to represent the worst-case meteorological conditions. For the CAL3QHC intersection component, six intersections were selected for modeling based on the latest information from Denver Regional Council Of Governments (DRCOG) regarding the highest volume and most congested intersections in the Denver CO nonattainment area. This was done consistent with our modeling guidance.

After an analysis, the State concluded that the Continuous Air Monitoring Project (CAMP) ambient air quality monitor, located at the intersection of Broadway and Champa Street, was still the maximum concentration monitor for the Denver CO nonattainment area. This analysis is further detailed in Part II, Chapter 4, section C of the maintenance plan and in the State's TSD. We agree with the State's conclusion regarding the maximum concentration monitor. The results of the State's modeling for 2006 and 2013 are presented in Part II, Chapter 4, section C, of the maintenance plan, in the State's TSD, and are reproduced in Table III–2 below:

TABLE III–2.—DISPERSION MODELING AND INTERSECTION MODELING RESULTS (IN PARTS PER MILLION)

Intersection	2006			2013		
	UAM [1]	CAL3QHC [2]	Total	UAM	CAL3QHC	Total
Broadway & Champa [1]	7.59	1.12	8.71	7.88	1.08	8.96
Foothills & Arapahoe	0.9	4.8	5.7	0.9	4.7	5.6
1st & University	4.0	4.3	8.3	3.9	4.2	8.0
Hampden & University	1.9	3.6	5.5	1.9	4.3	6.2
Parker & Illiff	2.7	3.2	5.8	2.6	3.0	5.6
Arapahoe & University	1.3	3.6	5.0	1.3	3.9	5.3

Footnotes for Table III–2:

[1] UAM (Urban Airshed Model). This column represents the dispersion model's calculated background CO concentration at each location.

[2] CAL3QHC (Intersection Model). This column represents the intersection model's calculated CO component concentration.

[3] The use of two significant figures by the State for the Broadway and Champa intersection, where the CAMP monitor is located, reflects the fact that the modeling done for the maximum concentration location was more detailed.

[2] ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas'', signed by D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

The modeling results presented in the Denver CO maintenance plan, the State's TSD, and as repeated in Table III–2 above show that CO concentrations are not estimated to exceed the 9.0 ppm 8-hour average CO NAAQS during the maintenance period's time frame through 2013. Therefore, we believe the Denver area has satisfactorily demonstrated maintenance of the CO NAAQS.

(c) Monitoring Network and Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Denver area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in two sections of the Denver CO maintenance plan. In Part II, Chapter 4, sections E and F.2, the State commits to continue the operation of the CO monitors in the Denver area and to annually review this monitoring network and make changes as appropriate. Please see our August 22, 2001, NPR (66 FR 44097) for a more detailed description.

Based on the above, we are approving these commitments as satisfying the relevant requirements. We note that this final approval renders the State's commitments federally enforceable.

(d) Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. Please see our August 22, 2001, NPR (66 FR 44097) for a more detailed description.

We find that the contingency measures provided in the State's Denver CO maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

(e) Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Colorado has committed to submit a revised maintenance plan eight years after our approval of the redesignation.

IV. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budget(s) in the SIP (40 CFR 93.118 and 93.124). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–96) and in the sections of the rule referenced above.

The maintenance plan defines the CO motor vehicle emissions budget in the Denver CO attainment/maintenance area as 800 tons per day for all years 2002 and beyond. This budget is equal to the maintenance year (2013) mobile source emissions inventory for CO for the attainment/maintenance area. We have scaled the modeling domain emissions projections for 2002 to the attainment/maintenance area values and believe the 800 tons per day value is essentially equivalent to the mobile source inventory for the attainment/maintenance area in 2002. In addition, our analysis indicates that the 800 tons per day budget is consistent with maintenance of the CO NAAQS throughout the maintenance period. Therefore, we are approving the 800 tons per day CO emissions budget for the Denver area.

Pursuant to section 93.118(e)(4) of EPA's transportation conformity rule, as amended, EPA must determine the adequacy of submitted mobile source emissions budgets. EPA reviewed the Denver CO budget for adequacy using the criteria in 40 CFR 93.118(e)(4), and determined that the budget was adequate for conformity purposes. EPA's adequacy determination was made in a letter to the Colorado APCD on July 12, 2000, and was announced in the **Federal Register** on August 3, 2000 (65 FR 47726). As a result of this adequacy finding, the 800 ton per day budget took effect for conformity determinations in the Denver metro area on August 18, 2000. However, we are not bound by that determination in acting on the maintenance plan.

V. EPA's Evaluation of the Regulation No. 11 Revisions

Colorado's Regulation No. 11 is entitled ''Motor Vehicle Emissions Inspection Program'' (hereafter referred to as Regulation No. 11). As described in our August 22, 2001, NPR (see 66 FR 44097), the version of Regulation No. 11 that was adopted on January 10, 2000, became effective on March 1, 2000, and was submitted by the Governor in conjunction with the Denver CO redesignation request and maintenance plan supersedes and replaces the other revisions of Regulation No. 11.

We concur with the revisions enacted by the State to Regulation No. 11 and are approving them.

VI. EPA's Evaluation of the Regulation No. 13 Revisions

Colorado's Regulation No. 13 is entitled ''Oxygenated Fuels Program'' (hereafter referred to as Regulation No. 13). As described in our August 22, 2001, NPR (see 66 FR 44097), the revisions to Regulation No. 13 were adopted on January 10, 2000, became effective on March 1, 2000, and were submitted by the Governor in conjunction with the Denver CO redesignation request and maintenance plan.

We concur with the revisions enacted by the State to Regulation No. 13 and are approving them.

VII. EPA's Evaluation of the USPS Revision

As stated in our NPR of August 22, 2001 (see 66 FR 44097), section 246(a)(2)(B) of the CAA requires areas such as Denver to have a clean fuel vehicle program in the EPA-approved SIP.

We had previously advised the State that we would be unable to redesignate the Denver area to attainment for CO unless the Governor submitted a clean fuel vehicle program meeting the requirements of section 246(a)(2)(B) of the CAA or a substitute program pursuant to CAA section 182(c)(4).[3] The State chose to submit a substitute program.

On May 22, 2000, the State, EPA, and USPS entered into an agreement under EPA's Project eXcellence and Leadership program (Project XL) and Colorado's Environmental Leadership Program under which the USPS agreed to destroy or relocate several hundred pre-1984 high-emitting postal delivery vehicles and replace them with low-emitting vehicles (LEV[4]) and low-emitting flexible fuel vehicles.[5] As part of this agreement, the USPS agreed that the State could incorporate the major components of the agreement into a SIP revision that the State could use as a

[3] Section 182(c)(4)(B) of the CAA refers to ozone-producing emissions; however, EPA has interpreted this section to allow for substitute programs for CO as well.

[4] A LEV is any vehicle certified to the low emission vehicle standards specified in 40 CFR 86, subpart R.

[5] A flexible fuel vehicle or dual fuel vehicle is a vehicle which operates on the combination of gasoline and an alternative fuel (any fuel other than gasoline and diesel fuel, such as methanol, ethanol, and gaseous fuels (40 CFR 86.000–2)), such as E–85 (gasoline blended with 85% ethanol).

substitute for a clean fuel vehicle program.

The AQCC adopted the USPS revision on March 16, 2000, and the revision became State-effective on May 30, 2000. The Governor submitted the USPS SIP revision to us on May 7, 2001.

On May 30, 2001, the Colorado Attorney General's Office submitted administrative corrections to the USPS SIP revision[6].

We concur with and are approving the State's USPS SIP revision because we have determined that the State will achieve greater reductions in emissions of CO with the USPS revision than would have been achieved by the clean fuels vehicle program required by CAA section 246(a)(2)(B).

VIII. Final Rulemaking Action

In this action, we are approving the Governor's May 10, 2000, request to redesignate the Denver carbon monoxide NAAQS nonattainment area to attainment, the Denver carbon monoxide NAAQS maintenance plan submitted May 10, 2000, the revisions to Regulation No. 11 and the revisions to Regulation No. 13 submitted May 10, 2000, and the Governor's May 7, 2001, USPS revision including the Attorney General's office administrative corrections of May 30, 2001. We are also approving the carbon monoxide transportation conformity budgets contained in the maintenance plan. This final action will become effective on January 14, 2002.

Administrative Requirements

(a) Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

(b) Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

(c) Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

(d) Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. In addition, redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

(e) Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211 ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

(f) Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final approval will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and

[6] Following adoption of the USPS revision, the AQCC inadvertently neglected to put the revision in final form before sending it to the Governor's office for submittal to EPA. In correcting the USPS revision, State Staff merely removed headings that indicated the USPS revision was ''draft'', dated and titled the revision, and inserted the correct date for the USPS Project XL agreement.

subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the SIP final approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). Redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements. Redesignation to attainment is an action that affects the legal designation of a geographical area and does not impose any regulatory requirements. Therefore, because the final approval of the redesignation does not create any new requirements, I certify that the final approval of the redesignation request will not have a significant economic impact on a substantial number of small entities.

(g) Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this final approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

(h) Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective January 14, 2002.

(i) National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

(j) Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 12, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Clean Air Act.)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas

Dated: December 3, 2001.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

Title 40, chapter I, parts 52 and 81 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(96) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(96) On May 10, 2000, the Governor of Colorado submitted SIP revisions to Colorado's Regulation No. 11 ''Motor Vehicle Emissions Inspection Program'' that supersede and replace all earlier versions of the Regulation and made several changes to the motor vehicle inspection and maintenance requirements including the implementation of a remote sensing device (RSD) program for the Denver metropolitan area. On May 10, 2000, the Governor also submitted SIP revisions to Colorado's Regulation No. 13 ''Oxygenated Fuels Program'' that supersede and replace all earlier versions of the Regulation and modified the oxygenated fuel requirements for the Denver metropolitan area.

(i) Incorporation by reference.

(A) Regulation No. 11 ''Motor Vehicle Emissions Inspection Program'', 5 CCR 1001–13, as adopted on January 10, 2000, effective March 1, 2000, as follows: Part A, Part B, Part C, Part D, Part E, and Part F.

(B) Regulation No. 13 ''Oxygenated Fuels Program'', 5 CCR 1001–16, as adopted on January 10, 2000, effective March 1, 2000, as follows: Sections I.A., I.B., I.C., I.D., I..E., II..A, II.B., II.C., II.D., II.E., II..F., II.G., and II.H.

3. Section 52.349 is amended by adding paragraph (g) to read as follows:

§ 52.349 Control strategy: Carbon monoxide.

* * * * *

(g) Revisions to the Colorado State Implementation Plan, carbon monoxide NAAQS Redesignation Request and

Maintenance Plan for Denver entitled ''Carbon Monoxide Redesignation Request and Maintenance Plan for the Denver Metropolitan Area, ''excluding Chapter 1, Chapter 2, and Appendix C, as adopted by the Colorado Air Quality Control Commission on January 10, 2000, State effective March 1, 2000, and submitted by the Governor on May 10, 2000.

4. New § 52.351 is added to read as follows:

§ 52.351 United States Postal Service substitute Clean Fuel Fleet Program.

Revisions to the Colorado State Implementation Plan, carbon monoxide NAAQS, United States Postal Service substitute clean-fuel vehicle program, as allowed under section 182(c)(4)(B) of the Clean Air Act, to address the requirements of section 246 of the Clean Air Act for the Denver Metropolitan carbon monoxide nonattainment area. The revisions were adopted by the Colorado Air Quality Control Commission on March 16, 2000, State effective May 30, 2000, and submitted by the Governor on May 7, 2001. Administrative corrections to the Governor's May 7, 2001, submittal were submitted by the Colorado Attorney General's office on May 30, 2001.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-*et seq.*

2. In § 81.306, the table entitled ''Colorado-Carbon Monoxide'' is amended by revising the entry for ''Denver-Boulder Area'' to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
* * *	*	*	*	*
Denver-Boulder Area:				
The boundaries for the Denver nonattainment area for carbon monixide (CO) are described as follows: Start at Colorado Highway 52 where it intersects the eastern boundary of Boulder County; Follow Highway 52 west until it intersects Colorado Highway 119; Follow northern boundary of Boulder city limits west to the 6,000-ft. elevation line; Follow the 6000-ft. elevation line south through Boulder and Jefferson Counties to US 6 in Jefferson County; Follow US 6 west to the Jefferson County-Clear Creek County line; Follow the Jefferson County western boundary south for approximately 16.25 miles; Follow a line east for approximately 3.75 mile to South Turkey Creek; Follow South Turkey Creek northeast for approximately 3.5 miles; Follow a line southeast for approximately 2.0 miles to the junction of South Deer Creek Road and South Deer Creek Canyon Road; Follow South Deer Creek Canyon Road northeast for approximately 3.75 miles; Follow a line southeast for approximately five miles to the northern-most boundary of Pike National Forest where it intersects the Jefferson County-Douglas County line; follow the Pike National forest boundary southeast through Douglas County to the Douglas County-El Paso County line; Follow the southern boundary on Douglas County east to the Elbert County line; Follow the eastern boundary of Douglas County north to the Arapahoe County line; Follow the southern boundary of Araphoe County east to Kiowa Creek; Follow Kiowa Creek northeast through Arapahoe and Adams Counties to the Adams-Weld County line; Follow the northern boundary of Adams County west to the Boulder County line; Follow the eastern boundary of Boulder County north to Highway 52.	January 14, 2002 ..	Attainment		
Adams County (part)				
Arapahoe County (part)				
Boulder County (part)				
Denver County				
Douglas County (part)				
Jefferson County (part)				
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.

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[FR Doc. 01–30816 Filed 12–13–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152 and 156

[OPP–300890A; FRL–6752–1]

RIN 2070–AD14

Pesticide Labeling and Other Regulatory Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revising certain labeling regulations for pesticide products for clarity. EPA is also interpreting the Federal Insecticide, Fungicide and Rodenticide Act as it applies to nitrogen stabilizers, and revising regulations that contain statutory provisions excluding certain types of products from regulation of pesticides. These topics were part of a larger proposal concerning antimicrobial products, and are being promulgated separately for convenience.

EFFECTIVE DATE: This rule is effective on February 12, 2002.

FOR FURTHER INFORMATION CONTACT: Jean M. Frane, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington DC 20460; telephone: (703) 305–5944; and e-mail address: frane.jean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or importer, or pesticide manufacturer. Potentially affected categories and entities may include but are not limited to:

Category	NAICS Code	Examples
Producers	32531	Nitrogen stabilizer products
	32532	Pesticide products
	32561	Antimicrobial products
Wholesalers	42269	Antimicrobial products
	42291	Pesticide products

This table is not exhaustive, but is intended as a guide to entities likely to be regulated by this action. The North American Industrial Classification System codes have been provided to assist you in determining whether this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information or Copies of Support Documents?

1. *Electronically*. You may obtain electronic copies of this document and various support documents are available from the EPA Home page at http://www.epa.gov/. On the Home Page, select ''Laws and Regulations,'' ''Regulations and Proposed Rules'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.''

2. *In person*. The Agency has established an official record for this action under docket control number OPP–36195. The official records consists of the documents specifically referred to in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). The official record includes documents that are physically located in the docket, as well as documents that are referred to in those documents. The public version of the official record does not include any information claimed as CBI. The public version of this record, including printed versions of any electronic comments, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. EPA Proposal

In the **Federal Register** of September 17, 1999 (64 FR 50672) (FRL–5770–6), EPA issued a proposed rule entitled ''Registration Requirements for Antimicrobial Pesticide Products and Other Pesticide Regulatory Changes.'' The proposal was primarily directed at implementing provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requiring EPA to issue regulations streamlining its management of the registration process for antimicrobial pesticides, and the main body of the proposal addressed antimicrobial procedures and policies.

At the same time, EPA chose to include additional proposals.

1. EPA proposed to codify a statutory provision excluding from regulation under FIFRA certain liquid chemical sterilants. The effect of the statutory exclusion was to eliminate double jurisdiction over liquid chemical sterilants by EPA and the Food and Drug Administration (FDA).

2. EPA proposed to exempt from FIFRA regulation under section 25(b) non-liquid chemical sterilants that met essentially the same criteria as those statutorily excluded. This proposal was intended to supplement the statutory exclusion to give FDA jurisdiction over all chemical sterilants for similar purposes.

3. EPA proposed to permit consolidated applications for amendment of several products at one time, under prescribed conditions.

4. EPA proposed to interpret a new provision of FIFRA defining certain nitrogen stabilizer products as pesticides, thus subjecting them to regulation under FIFRA.

5. EPA proposed to reformat, clarify, and make minor revisions to its labeling regulations that affect all pesticide products, including antimicrobial pesticides.

EPA is promulgating a final rule on the topics enumerated above separately from the main body of the antimicrobial proposal. EPA's decision is based partly on the fact that these proposals are general for all pesticides and are not limited to antimicrobial pesticides. Moreover, they were non-controversial and received little comment in proposal.

With few exceptions, noted in Unit III. of this Preamble, EPA is adopting the changes as proposed.

EPA is not at this time promulgating any of the core antimicrobial proposals, which were comprised of procedural regulations for registration, labeling requirements pertaining to the efficacy of public health products, and associated revisions to accommodate the new antimicrobial provisions.

III. Comments

In this unit, EPA will discuss briefly the major comments received on the topics listed above and any resulting revisions. Of the 20 sets of comments received on the entire proposal, the vast majority were directed to the antimicrobial provisions. Most comments on the topics being promulgated today came from major trade associations and large producers of antimicrobial products. They were, by and large, editorial or clarifying. A