unless EPA receives adverse written comments by October 11, 2001.

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 November 13, 2001. 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, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 10, 2001.

Kerrigan G. Clough,

Acting Regional Administrator, Region VIII.

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. 7401–7671q.

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(11)(i) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(11) * * *

(i) Regulation 9, ''Trip Reduction,'' previously approved on October 5, 1979, and now deleted without replacement.

* * * * *

(91) On May 10, 2000, the Governor of Colorado submitted revisions to the Colorado State Implementation Plan consisting of: Revisions to Regulation 12 to remove the ''Reduction of Diesel Vehicle Emissions'' program from areas outside the Denver PM_{10} non-attainment area, and Regulation 9 ''Trip Reduction,'' effective on January 30, 1979, is rescinded.

(i) Incorporation by reference.

(A) Revisions to Colorado Air Quality Control Commission Regulation No. 12, 5 CCR 1001–15, adopted by the Colorado Air Quality Control Commission on March 16, 2000, State effective May 30, 2000.

[FR Doc. 01–22612 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0054; FRL–7044–8]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver 1-Hour Ozone 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 May 11, 2001, EPA published a notice of proposed rulemaking (NPR) that used EPA's parallel processing procedure to propose approval of the State of Colorado's request to redesignate the Denver-Boulder metropolitan (Denver) ''transitional'' ozone nonattainment area to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS). In that NPR, EPA proposed to approve the maintenance plan for the Denver area and the additional State Implementation Plan (SIP) elements involving revisions to Colorado's Regulation No. 3 ''Air Contaminant Emissions Notices'' and Colorado's Regulation No. 7 ''Emissions of Volatile Organic Compounds'' that were previously submitted by Governor Roy Romer, for our approval, on August 8, 1996.

In this action, EPA is approving the Denver 1-hour ozone redesignation request, the maintenance plan, the revisions to Regulation No. 3 and Regulation No. 7, and the Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) transportation conformity budgets.

EFFECTIVE DATE: October 11, 2001.

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.

Copies of the State documents relevant to this action are available for public inspection at: Colorado Department of Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION 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.

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?

In this final rulemaking action, we are approving the Denver 1-hour ozone redesignation request, maintenance plan, and the associated additional SIP elements.

With the publication of our NPR on May 11, 2001, (66 FR 24075), we utilized our parallel processing procedure for public comment to consider a proposed maintenance plan that the Colorado Air Quality Control Commission (AQCC) proposed for public comment at the State level on October 19, 2000. The AQCC adopted the maintenance plan, with minor technical changes that we did not consider significant, on January 11, 2001. Parallel processing allows EPA to propose rulemaking on a SIP revision, and solicit public comment, at the same time the State is processing the SIP revision. For further information regarding parallel processing, please see 40 CFR part 51, appendix V, section 2.3.1.

On May 7, 2001, the Governor submitted to us for approval the final Denver redesignation request and maintenance plan. The revisions to Regulation No. 3 and Regulation No. 7 were submitted on August 8, 1996, by former Governor Roy Romer.

In this final action, we are approving the change in the legal designation of the Denver area from nonattainment to attainment for the 1-hour ozone NAAQS (hereafter referred to as ''ozone NAAQS'' or ''ozone standard''), we're approving the AQCC-adopted maintenance plan that is designed to keep the area in attainment for ozone for the next 13 years, and we're approving the changes to AQCC Regulation No. 3 and AQCC Regulation No. 7. We also note that in his November 30, 2000, letter, the Governor asked that we parallel process a potential alternative provision for the maintenance plan that

had been proposed by the Colorado Department of Transportation (CDOT). CDOT's alternative provision involved the conversion of the Santa Fe Boulevard High Occupancy Vehicle (HOV) lanes to general service lanes and the provision of funds to provide additional light rail transit cars to compensate for the loss of the HOV emission reductions. However, in a December 6, 2000, letter (that we received on December 19, 2000) from CDOT to the AQCC, CDOT withdrew its request for this alternative provision indicating that it could not guarantee light rail transit cars to replace the HOV lanes. Based on our understanding that this CDOT proposed alternative provision is moot, we are not taking action on this alternative.

We originally designated the Denver area as nonattainment for ozone 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), EPA designated the Denver area as nonattainment for ozone because the area had been previously designated as nonattainment before November 15, 1990. The Denver area was classified under section 185A of the CAA as a ''transitional'' ozone nonattainment area as the area had not violated the ozone NAAQS in the years 1987, 1988, and 1989.[1]

Under the CAA, designations can be changed if sufficient data are available to warrant such changes 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, EPA must find, among other things, that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur prior to final approval of the redesignation request or simultaneously with final approval of the redesignation request. We note there are no outstanding SIP elements necessary for the redesignation. However, the Governor previously requested approval of revisions to Regulation No. 3 and Regulation No. 7 such that rules applicable to the Denver ozone nonattainment area will remain in effect after Denver is redesignated to attainment for the 1-hour ozone standard. Therefore, we are also approving the revisions to Regulation No. 3 and Regulation No. 7.

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 final revisions being submitted by a State to us.

At the October 19, 2000, AQCC meeting, the Commission proposed for public comment the ozone redesignation request and maintenance plan. The AQCC held a public hearing on January 11, 2001, for considering public comment on the above SIP revisions. After accepting several minor technical corrections to the maintenance plan, the AQCC adopted the Denver 1-hour ozone redesignation request and maintenance plan, directly after the public hearing, on January 11, 2001. These SIP revisions became State effective March 4, 2001, and were submitted by the Governor to us on May 7, 2001. We have evaluated the Governor's May 7, 2001, 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 June 15, 2001, through a letter from Jack W. McGraw, Acting Regional Administrator, to Governor Bill Owens.

The AQCC had previously held a public hearing on March 21, 1996, for the revisions to AQCC Regulation No. 3 ''Air Contaminant Emissions Notices'' (hereafter, Regulation No.3) and AQCC Regulation No. 7 ''Emissions of Volatile Organic Compounds'' (hereafter, Regulation No. 7). The AQCC adopted the revisions to Regulation No. 3 and Regulation No. 7 directly after the hearing. These SIP revisions became State effective May 30, 1996, and were submitted by the Governor to us on August 8, 1996.

We have evaluated the Governor's prior submittal involving the revisions to Regulation No. 3 and Regulation No. 7 and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By operation of law under section 110(k)(1)(B) of the CAA, the Governor's August 8, 1996, submittal of the revisions to Regulation No. 3 and Regulation No. 7 became complete on February 6, 1997.

III. EPA's Evaluation of the May 7, 2001, Final Redesignation Request and Maintenance Plan

We have reviewed the Governor's May 7, 2001, final submittal of the redesignation request and maintenance plan and we believe that approval of the request and maintenance plan are warranted. Please see our May 11, 2001, NPR (66 FR 24075) for our discussion regarding the Governor's November 30, 2000, parallel processing submittal and the January 11, 2001, AQCC hearing and actions regarding these materials.

We have also considered all public comments that were submitted in response to our May 11, 2001 (see 66 FR 24075) NPR for this action (we only received one comment letter from the Denver Regional Air Quality Council which was in support of our NPR.) We have determined that all required SIP elements, including the maintenance plan, have either been approved previously or will be fully approved with this final rule, that the area has attained the NAAQS for the 1-hour ozone standard, and that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the

[1] The CAA describes areas as ''transitional'' if they were designated nonattainment both prior to enactment and (pursuant to CAA section 107(d)(1)(C)) at enactment, and if the area did not violate the primary ozone NAAQS in the 3-year period of 1987 through 1989. Refer to section 185A of the CAA and the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498, April 16, 1992. See specifically 57 FR 13523, April 16, 1992.

implementation of the applicable implementation plan, applicable Federal air pollutant control regulations, and other permanent and enforceable reductions. Thus, with the Governor's May 7, 2001, submittal, 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 CAA section 107(d)(3)(E) requirements have been met are provided in our May 11, 2001, NPR for this action (see 66 FR 24075) and, for the most part, will not be repeated here. Our discussion below takes into account our prior evaluation presented in our May 11, 2001, NPR and now presents our evaluation of the Governor's final submittal of May 7, 2001.

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 ozone nonattainment area because we have determined, as detailed below, that the State's maintenance plan submittal of May 7, 2001, meets the requirements of section 175A of the CAA and is consistent with EPA interpretations of the CAA section 175A maintenance plan requirements provided in the General Preamble to Title I of the CAA and our September 4, 1992, policy memorandum [2]. Our analysis of the pertinent maintenance plan requirements was fully described in our May 11, 2001, proposed rule (see 66 FR 24075) and is restated, in part, below, with particular reference to the Governor's May 7, 2001, submittal:

(a) Emissions Inventories—Attainment Year and Projections

Under our interpretations, areas seeking to redesignate to attainment for the 1-hour ozone NAAQS may demonstrate future maintenance of the ozone NAAQS either by showing that future VOC and NO_X emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. For the Denver area, the State selected the emissions inventory approach for demonstrating maintenance of the ozone NAAQS.

The maintenance plan that the Governor submitted on May 7, 2001, included comprehensive inventories of VOC and NO_X emissions for the Denver area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, on-road mobile sources, and biogenics (i.e., VOCs emitted from pine trees and other types of vegetation.) The State selected 1993 as the year from which to develop the attainment year inventory and included projections for 2006 and 2013. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance.

Summary emission figures from the 1993 attainment year and the projected years are provided in Table III.–1 and Table III.–2 below.

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

	Rev. 1993 [1]	Rev. 2006 [1]	Rev. 2013 [1]
Point Sources ...	46	52	56
Area Sources	74	73	80
Non-Road Mobile Sources ..	58	39	38
On-Road Mobile Sources	119	84	74
Biogenics	211	211	211
Total	507	460	459

[1] These are the revised inventory figures that represent the technical corrections that were adopted by AQCC with the maintenance plan and TSD at the January 11, 2001, public hearing. They became part of the Governor's final submittal of May 7, 2001.

TABLE III–2.—SUMMARY OF NO_X EMISSIONS IN TONS PER DAY FOR DENVER

	Rev. 1993 [1]	Rev. 2006 [1]	Rev. 2013 [1]
Point Sources ...	122	123	126
Area Sources	7	10	11
Non-Road Mobile Sources ..	65	57	50
On-Road Mobil Sources	134	115	117
Biogenics	4	4	4
Total	332	309	308

[1] These are the revised inventory figures that represent the technical corrections that were adopted by AQCC with the maintenance plan and TSD at the January 11, 2001, public hearing. They became part of the Governor's final submittal of May 7, 2001.

(b) Demonstration of Maintenance—Projected Inventories

As noted above, total VOC and NO_X emissions were projected by the State for 2006 and 2013. The years 2006 and 2013 were selected by the State, with EPA's concurrence, due to the immediate availability of transportation data sets from the Denver Regional Council Of Governments (DRCOG) from the work performed on the Denver carbon mooxide (CO) redesignation request and maintenance plan.

The Denver CO redesignation request and maintenance plan were submitted to us on May 10, 2000. This maintenance plan used the latest revised transportation data sets that were developed by DRCOG for the State to model the mobile source emissions. In addition, the CO maintenance plan incorporated changes to AQCC Regulation No. 11 that would initiate a Remote Sensing Device (RSD) program in 2002 and affect the cutpoints for the enhanced I/M program. Both of these I/M program revisions would also directly affect emission reductions for the ozone maintenance plan.

The RSD program is designed to evaluate 20% of the fleet in 2003, 40% of the fleet in 2004, 60% of the fleet in 2005, and 80% of the fleet in 2006. The RSD program will continue through 2013. In conjunction with the new RSD program, Regulation No. 11's enhanced I/M program will continue to apply to evaluate the remainder of the fleet and those vehicles that did not pass evaluation by the RSD program. We have reviewed these State-adopted changes to Regulation No. 11 and are proposing approval of them in a separate rulemaking action for the Denver CO redesignation request and maintenance plan. We note that the State has properly accounted for these

[2] 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.

Regulation No. 11 revisions in the projected emission inventories for 2006 and 2013 and is able to demonstrate maintenance of the 1-hour ozone standard. In the event that we are unable to approve the Regulation No. 11 revisions that were submitted by the Governor on May 10, 2000, this would not have an adverse impact on the Denver ozone maintenance plan as the current I/M program would continue and would provide greater emission reductions than the State has projected for the amended version of Regulation No. 11. In either scenario, the maintenance demonstration would still be valid.

For the ozone maintenance plan, the 1993 attainment year inventory and the projected 2006 and 2013 inventories were all prepared in accordance with EPA guidance. As stated in the maintenance plan, the projected emission inventories show a steady downward trend in both VOC and NO_X emissions. This is due mainly to more stringent motor vehicle tailpipe emission standards and additional Federal rule requirements for non-road sources of emissions. Because of this steady downward trend in emissions and because future year emissions are projected to be considerably below the 1993 attainment year levels, the State expects there will be no increases in emissions in the years between the present and 2013 that will jeopardize the demonstration of maintenance. Based on the information in the maintenance plan and the State's TSD, we agree with this conclusion.

Therefore, as the projected 2006 and 2013 inventories show that VOC and NO_X emissions are not estimated to exceed the 1993 attainment levels during the time period from the present through 2013, the Denver area has satisfactorily demonstrated maintenance of the 1-hour ozone NAAQS.

(c) Monitoring Network and Verification of Continued Attainment

Continued attainment of the 1-hour ozone 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 maintenance plan. In Chapter 2, section B and Chapter 3, section E the State commits to continue the operation of the ozone monitors in the Denver area and to annually review this monitoring network and make changes as appropriate. Please see our May 11, 2001, NPR (66 FR 24075) for a more detailed discussion.

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 May 11, 2001, NPR (66 FR 24075) for a detailed discussion.

We find that the contingency measures provided in the State's Denver ozone 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 SIP revision eight years after the 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 budgets 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 62193–62196) and in the sections of the rule referenced above.

The final maintenance plan, as submitted by the Governor on May 7, 2001, defines the motor vehicle emissions budgets in the Denver ozone attainment/maintenance area as 119 tons per day for VOCs and 134 tons per day for NO^X for all years 2002 and beyond. These figures reflect technical corrections to those of 124 tons per day for VOCs and 139 tons per day for NO^X that were previously submitted by the Governor on November 30, 2000. These budgets are equal to the attainment year (1993) mobile source emissions inventory for these pollutants and use some of the available safety margin in the years 2002 to 2013. The use of the safety margin is permitted by the conformity rule. See 40 CFR 93.124(a).

The State used specific inventory values for the years 2006 and 2013 to calculate and use some of the available safety margin in those years. As revised during the January 11, 2001, public hearing, in 2006 the total emissions of VOCs and NO_X are lower than the 1993 attainment year emissions inventory by 47 (was 56) tons per day and 23 (was 27) tons per day respectively. For 2006, the State added the mobile sources portion of the safety margin (35 tons per day for VOCs and 19 tons per day for NO_X) to the 2006 mobile sources emission inventories to arrive at the final budgets of 119 tons per day for VOCs and 134 tons per day for NO_X . For 2013, the State similarly allocated the safety margin to arrive at the same budgets. Although the maintenance plan does not specifically address the inventories for the other years between 2002 and 2013, the maintenance plan defines the same budgets for 2002 and all years beyond, thus evidencing the intent to apply some portion of the available safety margin in 2002 to arrive at these same budgets. We believe this is acceptable under the circumstances because we would not expect total emissions from sources other than on-road mobile sources to exceed their 1993 levels in the year 2002 or any other year before 2013. Therefore, in view of our analysis, we are approving these 1-hour ozone NAAQS VOC and NO_X budgets for the Denver area.

V. EPA's Adequacy Determination for the Maintenance Plan's Transportation Conformity Budgets

On March 2, 1999, the United States Court of Appeals for the District of Columbia issued a decision in *Environmental Defense Fund* v. *the Environmental Protection Agency,* No. 97–1637, holding that we must make an affirmative determination that the submitted motor vehicle emission budgets contained in SIPs are adequate before they are used to determine the conformity of Transportation Improvement Programs or Long Range Transportation Plans. In response to the Court's decision, we are making most submitted SIP revisions containing motor vehicle emission budgets available for public comment and responding to these comments before announcing our adequacy determination. (We do not perform adequacy determinations for SIP revisions that only create new emission budgets for years in which an EPA-approved SIP already establishes a budget, because these new budgets cannot be used for conformity until they are approved by EPA.) We make adequacy determinations available for

comment by posting notification of their availability on our web site (currently, these notifications are posted at www.epa.gov/otaq/transp/conform/adequacy.htm.) The adequacy process is discussed in greater detail in a May 14, 1999 memorandum from Gay MacGregor, EPA, entitled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision,'' which is also available on our web site (www.epa.gov/oms/transp/traqconf.htm).

As noted above, the Denver final ozone maintenance plan was submitted to EPA on May 7, 2001. Notice of the availability of this SIP revision was posted on our adequacy web site on May 30, 2001, and a 30-day comment period for adequacy was provided, following the procedures described in the May 14, 1999 memo. We did not receive any comments on the plan during the comment period which closed on June 29, 2001. In addition, as part of our review, we must also review any comments submitted to the AQCC on the maintenance plan during the public hearing process. Environmental Defense had presented comments both in their AQCC prehearing statement and at the January 11, 2001, public hearing regarding these budgets. Their concerns essentially dealt with the issue of the State allocating all of the ''safety margin'' to the transportation conformity budgets. The Air Pollution Control Division (APCD) explained to the AQCC that this approach is allowed under EPA's conformity rule provisions. The AQCC agreed and adopted the budgets with the maintenance plan directly after the January 11, 2001, public hearing. We note that our May 11, 2001, NPR (see 66 FR 24075) also discussed these AQCC-adopted transportation conformity budgets and the use of the available ''safety margin.'' We did not receive any adverse comments regarding our NPR (the only comment received was from the Denver RAQC in support of our proposed action.)

The conformity rule (in 40 CFR 93.118(e)(4)) provides technical and administrative criteria that we must use in determining adequacy of submitted emissions budgets, and we have determined that these criteria have been satisfied for the NO_X and VOC emissions budgets in the maintenance plan. Our approval of these budgets in this action (see prior section) should also be considered our determination that these budgets are adequate for transportation conformity purposes. EPA will not be publishing a separate notice in the **Federal Register** documenting our adequacy determination. The Denver Regional Council of Governments and the U.S. Department of Transportation are required to use these budgets in future conformity analyses as of the effective date of this final rule.

VI. EPA's Evaluation of the Regulation No. 3 Revisions

As we described in our May 11, 2001, NPR (see 66 FR 24075), the Governor of Colorado had previously submitted minor revisions to Regulation No. 3 in conjunction with the Governor's original August 8, 1996, submittal of the Denver ozone maintenance plan.

We concur with these revisions to Regulation No. 3 and are approving them.

VII. EPA's Evaluation of the Regulation No. 7 Revisions

As we described in our May 11, 2001, NPR (see 66 FR 24075), the Governor of Colorado had previously submitted minor revisions to Regulation No. 7 in conjunction with the Governor's original August 8, 1996, submittal of the Denver ozone maintenance plan.

We concur with these revisions to Regulation No. 7 and are approving them. We again note that additional revisions to Regulation No. 7 were also submitted with the Governor's August 8, 1996, submittal and included the addition of paragraphs A.2., A.3., and A.4. to create ''de minimus'' exemptions. We are not taking any action on these revisions and did not consider them with our proposed approval of the Governor's November 30, 2000, submittal, nor with this final rulemaking action.

VIII. EPA's Evaluation of the Request for Revision to 40 CFR 80.27(a)(2) for RVP

The maintenance plan that was submitted by the Governor (for parallel processing) on November 30, 2000, and his final submittal of May 7, 2001, incorporate a gasoline RVP limit of 9.0 psi in the maintenance demonstration. Since maintenance of the 1-hour ozone NAAQS is shown for the entire maintenance time period of 1993 through 2013 with this 9.0 psi limit, the State of Colorado has requested that the 9.0 psi summertime RVP limit (10.0 psi for ethanol-blends) be made permanent for the Denver attainment/maintenance area once EPA approves the redesignation request and maintenance plan. We believe this change would be appropriate. However, separate rulemaking through our Headquarters office is necessary to revise the RVP requirements for Colorado as specified in 40 CFR 80.27(a)(2). We anticipate that our Headquarters office will pursue this particular rulemaking action after the effective date of this final rule.

IX. Final Rulemaking Action

In this action, we are approving the Governor's May 7, 2001, request to redesignate the Denver 1-hour ozone NAAQS nonattainment area to attainment, the Denver 1-hour ozone NAAQS maintenance plan submitted May 7, 2001 (excluding Chapter 1 ''Introduction'' and Appendix B ''Changes to AQCC Ambient Air Quality Standards Regulation''), the revisions to Regulation No. 3 and Regulation No. 7 (excluding paragraphs A.2., A.3., and A.4.) submitted August 8, 1996, and the VOC and NO_X transportation conformity budgets contained in the maintenance plan. This final action will become effective on October 11, 2001.

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 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 October 11, 2001.

(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 November 13, 2001. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 15, 2001.

Jack W. McGraw,

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)(94) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(94) On August 8, 1996, the Governor of Colorado submitted revisions to Regulation No. 3, ''Air Contaminant Emissions Notices,'' that exempt gasoline stations located in ozone attainment areas from construction permit requirements, with the exception of those gasoline stations located in the Denver Metro ozone attainment maintenance area. The Governor also submitted revisions to Regulation No. 7, ''Emissions of Volatile Organic Compounds,'' that state the provisions of Regulation No. 7 shall apply only to ozone nonattainment areas and the Denver Metro Attainment Maintenance Area with the exception of Section V, Paragraphs VI.B.1 and 2., and Subsection VII.C., which shall apply statewide.

(i) Incorporation by reference.

(A) Part B, section III. D.1.f of Regulation No. 3 ''Air Contaminant Emissions Notices'', 5 CCR 1001–5, as adopted on March 21, 1996, effective May 30, 1996.

(B) Section I.A.1 of Regulation No. 7 ''Emissions of Volatile Organic Compounds'', 5 CCR 1001–9, as adopted on March 21, 1996, effective May 30, 1996.

3. New section 52.350 is added to read as follows:

§ 52.350 Control strategy: Ozone.

Revisions to the Colorado State Implementation Plan, 1-hour ozone NAAQS Redesignation Request and Maintenance Plan for Denver entitled ''Ozone Redesignation Request and Maintenance Plan for the Denver Metropolitan Area,'excluding Chapter 1 and Appendix B, as adopted by the Colorado Air Quality Control Commission on January 11, 2001, State effective March 4, 2001, and submitted by the Governor on May 7, 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-Ozone (1–Hour Standard)'' is amended by revising the entry for ''Denver-Boulder Area'' to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Denver-Boulder Area:				
Adams County (part)				
West of Kiowa Creek	10/11/2001	Attainment.		
Arapahoe County (part)				
West of Kiowa Creek	.....	Attainment.		
Boulder County (part) excluding Rocky Mountain National Park.	.....	Attainment.		
Denver County	.....	Attainment.		
Douglas County	.....	Attainment.		
Jefferson County	.....	Attainment.		
* * *	*	*	*	*

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7052–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final notice of deletion of the Farmers' Mutual Cooperative site from the National Priorities List (NPL).

SUMMARY: The EPA, Region VII, is publishing a direct final notice of deletion of the Farmers' Mutual Cooperative site (site) located in Hospers, Iowa, from the NPL.

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the state of Iowa, through the Iowa Department of Natural Resources because EPA has determined that all appropriate response actions under CERCLA have been completed; and therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective November 13, 2001 unless EPA receives adverse comments by October 11, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to Catherine Barrett, Remedial Project Manager, U.S. Environmental Protection Agency, Superfund Division, 901 North 5th Street, Kansas City, KS 66101.

Information Repositories: Comprehensive information on the site is available for viewing in the Deletion Docket at the information repositories located at: U.S. EPA, Region VII, Superfund Division Records Center, 901 North 5th Street, Kansas City, KS 66101; and the Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, IA 50319.

FOR FURTHER INFORMATION CONTACT: Catherine Barrett, Remedial Project Manager, U.S. Environmental Protection Agency, Superfund Division, 901 North 5th Street, Kansas City, KS 66101, fax (913) 551–7063 or 1–800–223–0425.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The EPA Region VII is publishing this direct final notice of deletion of the Farmers' Mutual Cooperative Superfund site NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in the section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective November 13, 2001 unless EPA receives adverse comments by October 11, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. The EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Farmers' Mutual Cooperative Superfund site and demonstrates how it meets the deletion criteria. Section V states EPA's action to delete the site from the NPL unless adverse comments are received during the comment period.

II. NPL Deletion Criteria

Section 300.425 (e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response TrustFund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or,

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the remedy remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without the application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the site:

(1) The EPA consulted with the state of Iowa on the deletion of the site from the NPL prior to developing this direct final notice of deletion.

(2) The state of Iowa concurred with deletion of the site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Deletion Docket at the site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of