

Administrator certifies that this rule will not have a significant economic 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 any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 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 CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it approves a state rule implementing a Federal standard.

In reviewing state operating permit program submissions, EPA's role is to approve State choices, provided that they meet the requirements of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state operating permit program submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program submission, to use VCS in place of an operating permit program submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 30, 2010. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the final rulemaking. 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 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: February 16, 2010.

**Karl Brooks**,  
Regional Administrator, Region 7.

■ Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 70—[AMENDED]

■ 1. The authority citation for Part 70 continues to read as follows:

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

■ 2. Appendix A to Part 70 is amended by adding paragraph (l) under Iowa to read as follows:

#### Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

\* \* \* \* \*

#### Iowa

\* \* \* \* \*

(l) The Iowa Department of Natural Resources submitted for program approval a revision to rule 567-22.106(1) on February 20, 2009. The State effective date was February 4, 2009. This revision to the Iowa program is approved effective April 30, 2010.

\* \* \* \* \*

[FR Doc. 2010-4144 Filed 2-26-10; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 80

[EPA-HQ-OAR-2008-0924; FRL-9119-3]

RIN 2060-AP40

#### Regulation of Fuels and Fuel Additives: Federal Volatility Control Program in the Denver-Boulder-Greeley-Ft. Collins-Loveland, CO, 1997 8-Hour Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This action establishes an applicable standard of 7.8 pounds per square inch (psi) Reid vapor pressure (RVP) under the federal volatility control program in the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado, 1997 8-hour ozone nonattainment area during the high ozone season—June 1st to September 15th of each year—beginning in 2010. This action requires the use of 7.8 psi RVP gasoline in Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson counties, and in portions of Larimer, and Weld counties.

**DATES:** This final rule is effective March 31, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2008-0924. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Kurt Gustafson, Office of Transportation and Air Quality, Transportation and Regional Programs Division, Mailcode 6406J, Environmental Protection Agency, 1200 Penn Ave., NW., Washington, DC 20460; telephone number: (202) 343-9219; fax number: (202) 343-9219; e-mail address: [gustafson.kurt@epa.gov](mailto:gustafson.kurt@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does This Action Apply to Me?*

Regulated Entities. Entities potentially affected by this rule are fuel producers and distributors who do business in Colorado. Regulated entities include:

Examples of potentially regulated entities	NAICS codes <sup>a</sup>
Petroleum Refineries .....	324110
Gasoline Marketers and Distributors .....	424710 424720 447110
Gasoline Retail Stations .....	484220
Gasoline Transporters .....	484230

<sup>a</sup>North American Industry Classification System (NAICS).

This table provides only a guide for readers regarding entities likely to be regulated by this action. You should carefully examine the regulations in 40 CFR 80.27 to determine whether your facility is impacted. If you have further questions, call the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

**II. Background**

Section 211(h) of the Clean Air Act (CAA), requires that EPA promulgate regulations establishing a maximum RVP of 9.0 psi for gasoline introduced into commerce during the high ozone season. It also provides that EPA shall “establish more stringent Reid Vapor Pressure standards in a nonattainment area as the Administrator finds necessary to generally achieve comparable evaporative emissions (on a per-vehicle basis) in nonattainment areas, taking into consideration the

enforceability of such standards, the need of an area for emission control, and economic factors.” In today’s action, EPA is establishing an applicable standard for gasoline at 7.8 pounds per square inch (psi) under the federal volatility control program in the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado 8-hour ozone nonattainment area (as codified in volume 40 of the Code of Federal Regulations (CFR) Part 81) during the high ozone season. This action requires the use of 7.8 psi RVP gasoline in Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson counties, and in portions of Larimer and Weld counties.

Gasoline with 7.8 psi RVP is already required in the former 1-hour ozone nonattainment area, which represents a significant portion of the fuel used in the newly expanded area. The change codified in this action extends the low RVP fuel requirement to portions of Larimer and Weld counties and into the remaining portions of Arapahoe, Adams, Boulder and Broomfield counties. Denver is located in Petroleum Administration for Defense Districts (PADD) IV, which is the most isolated area within the 48 lower states of the U.S. in terms of supply. PADD IV includes the Rocky Mountain states (Montana, Idaho, Wyoming, Utah, and Colorado). Gasoline supply to the Denver market originates from 6 main refiners. These refiners vary in size, refining capacity and complexity. The refiners are: Suncor (Commerce City, CO), Valero Corp. (Commerce City, CO), Conoco-Phillips (Borger, TX), Valero Corp. (Sunray, TX), Sinclair Oil Corp. (Casper and Rawlins, WY), and Frontier Oil Corp. (Cheyenne, WY and El Dorado, KS).

**III. Final Action**

EPA is establishing an applicable standard of 7.8 psi RVP under the federal volatility control program in the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado, 1997 8-hour ozone nonattainment area (as codified in volume 40 of the Code of Federal Regulations (CFR) Part 81) during the high ozone season—June 1st to September 15th of each year—beginning in 2010. This action requires the use of 7.8 psi RVP gasoline in Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson counties, and in portions of Larimer, and Weld counties.

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 30 days after publication in the **Federal Register**.

**IV. Response to Comments**

Only one comment was submitted in response to EPA’s Notice of Proposed Rulemaking. Frontier Refining, having identified themselves as a small refiner, commented that it would be unable to provide supplemental volumes of low (7.8 psi) RVP gasoline above its current volume to the Denver metro area and asked for small refiner relief. Frontier commented that it supplies 3,000 barrels a day of conventional (9.0 psi) gasoline that would no longer be available for the market in the 2010 summer control period when a lower vapor pressure is required, but that it would have the ability to produce the low RVP gasoline for the 2011 summer control period.

EPA understands the commenter’s concerns. We believe that granting an exemption that would allow Frontier to sell 9.0 RVP fuel in areas where 7.8 RVP fuel is required would create significant enforcement issues. The 3,000 barrel per day allocation that Frontier Refining indicates that it would be unable to convert to lower RVP fuel represents approximately 3.7% of the total volume supplied daily to the Denver 8-hour nonattainment area. Although this volume of 9.0 fuel, which would be sold in the 7.8 areas, would be relatively small, EPA would likely not be able to determine if fuel at a retail outlet having an RVP exceeding 7.8 psi is in violation either because it is fuel from a refinery without an exemption, or fuel supplied by Frontier Refining. Further, we believe there are other factors such as economic incentives, for distributors and retailers to sell as much 9.0 RVP fuel supplied by Frontier Refining as possible in the 7.8 RVP areas, due to price differentials between products that would exacerbate this problem. This would likely result in more 9.0 RVP fuel being sold in the 7.8 RVP area than predicted and thus, affect the emissions reductions needed in the area. Also, we believe that distributors and retailers might sell, within the 7.8 RVP fuel

areas, 9.0 RVP fuel produced by large refiners to obtain the advantage of the price differential. We do not believe that requiring product transfer document information, indicating that 9.0 RVP fuel is being supplied by a small refiner and is useable in the 7.8 RVP fuel areas, would alleviate the enforcement issues largely because fuel is fungible as a result of mixing at terminals. This would mean much larger volumes of fuel would be eligible for the exemption than just the volume supplied by Frontier Refining, making enforcement by retail sampling and testing difficult.

Additionally, we have significant concerns about the emission increases associated with providing this relief, even if the enforcement problems noted above could be resolved to limit the fuel receiving the relief. This is because the Denver-Boulder-Greeley-Ft. Collins-Loveland 8-hour ozone nonattainment area is required to attain the standard as expeditiously as practicable, but no later than November 2010. On June 18, 2009, the State submitted an Ozone SIP revision with a dispersion modeled attainment demonstration. The attainment demonstration's truncated 2010 design value was 84 ppb; the modeled design value, however, was 84.8 ppb which is 0.2 ppb below a violation for the 1997 .08 ppm ozone NAAQS. In addition, the State's supporting documentation and SIP revision submittal also contain information (see submission in docket EPA-HQ-OAR-2008-0924) showing that 7.8 RVP fuel will provide additional reductions of VOC emissions, which will help ensure the success of Colorado's ozone action plan. Specifically, implementation of this fuel requirement will provide approximately three tons per day of additional VOC emission reductions, which will help the area towards its attainment goal in 2010. As shown by the attainment demonstration, there is no room in the area for increased emissions. The risk of failure to attain increases significantly if the area does not get all the emission reductions expected from the gasoline volatility program. We also believe the State's request to implement this program in the expanded 8-hour nonattainment area is a valid and reasonable request. We note that the economic hardship for Frontier Refining is limited to the 2010 ozone season only, and that there are other markets available for its 9.0 psi gasoline, which means that its product would not be stranded by this rule. Therefore, we believe that the risk of failure to attain, and the consequences connected to that

outcome, is too great to warrant granting the relief requested.

Further, we have spoken to other refiners that supply the market and all have expressed support for the rule. And at least one refiner has stated it has the capacity to provide more low RVP gasoline to the area; therefore, it is reasonable to expect that the difference can be replaced with low RVP gasoline from other sources. In this case the clear need for the state to receive the emission reductions expected from this rule, both during the summer of 2010 and later, and the apparent ability of the industry overall to supply the required low RVP gasoline warrant not providing the individualized exception to this rule requested by Frontier Refining.

#### V. Environmental Impact

The Colorado Department of Public Health and Environment estimated that 2.7 tons per day of hydrocarbon (HC) emissions would be reduced from lowering gasoline volatility to 7.8 psi RVP in the expanded Non-Attainment Area (see docket for analysis).

#### VI. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and therefore is not subject to review under the EO.

The Colorado Department of Public Health and Environment prepared an analysis of the potential costs and benefits associated with this action. This analysis is contained in "Analysis of Expansion of Low RVP Area by the State of Colorado". A copy of the analysis is available in the docket for this action.

##### B. Paperwork Reduction Act

This action does not impose any new information collection burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations, the phase I and phase 2 volatility rules (55 FR 11868, March 22, 1989 and 55 FR 23658, June 11, 1990) under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060-0178. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

##### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any

rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by this final rule are refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for sale in the expanded portion of the Denver-Boulder-Greeley-Ft. Collins-Loveland, CO, 8-hour ozone nonattainment area not already covered by low RVP requirements, and gasoline distributors and retail stations in those areas. We have determined that only one small refiner would be affected by the low RVP requirements. Other small entities, such as gasoline distributors and retail stations located in the area that will become a covered area as a result of today's action, will be subject to the same requirements as those small entities which are located in the current covered area. EPA believes the impacts these small entities (e.g. small blenders, importers, retailers, etc) would occur primarily in the form of a slightly higher wholesale gasoline price which would then be passed along in product price increases. In the proposed rule, we estimated low RVP incremental costs to be 0.45 to 3.4 cents/gallon during the summer volatility season. There would be no fuel or price difference outside the summer control season. In the proposed rule, we indicated that out of total 3.4 million gallons of gasoline consumed per day in the Denver-Boulder-Greeley-Ft. Collins-Loveland area during the control season, approximately 133,000 gallons per day of fuel would need to meet the more stringent low RVP standard. Applying an average price of \$2.50 per gallon for gasoline, the

incremental costs to produce the needed volume of low RVP gasoline equates to 0.002% to 0.02% of the total yearly consumer cost of gasoline in the Denver-Boulder-Greeley-Ft. Collins-Loveland NAA. For any one retail station that would have to convert entirely from a stream of 9.0 psi gasoline to low RVP gasoline in the summer season, the incremental costs, applying the same \$2.50 per gallon retail price, would be 0.2% to 1.4% of the gas revenue during the control season or 0.05% to 0.4% on an annual basis. However, since all wholesale suppliers would increase prices by about the same amount, the competitive environment for small entities purchasing that gasoline should not be affected significantly.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's rule affects portions of the Denver-Boulder-Greeley-Ft. Collins-Loveland, CO, 8-hour ozone nonattainment area that were not previously part of the 1-Hour ozone nonattainment area. EPA estimates that 133,000 gallons a day of gasoline would be affected by this rule; resulting in an economic impact of less than \$700,000 per summer. Today's rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

#### *E. Executive Order 13132: Federalism*

Under Executive Order 13132, EPA may not issue an action 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 action.

EPA has concluded that this action will have federalism implications. Moreover, it also may preempt State law. Current gasoline performance standards adopted by the state require 9.0 psi gasoline in the affected area where this rule would require 7.8 psi gasoline. Accordingly, EPA provides the following federalism summary impact statement as required by section 6(c) of Executive Order 13132.

EPA consulted with State and local officials early in the process of developing the proposed action to permit them to have meaningful and timely input into its development. The State indicated to EPA (*see* State's docket submission) that the use of 7.8 psi gasoline in the entire Denver-Boulder-Greeley-Ft. Collins-Loveland, CO, 8-hour ozone nonattainment area was necessary to ensure the success of Colorado's ozone action plan. The state requested EPA undertake this rulemaking to update the boundaries of the low RVP summer gasoline program to correspond to current 8-hour ozone nonattainment area boundaries. Gasoline with 7.8 psi RVP is already required in the former 1-hour ozone nonattainment area, which represents a significant portion of the fuel used in the newly expanded area. The change requested by the state and codified in this action extends the low RVP fuel requirement to portions of Larimer and Weld counties and into the remaining

portions of Arapahoe, Adams, Boulder and Broomfield counties.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This final rule impacts portions of the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado, 1997 8-hour ozone nonattainment area not previously part of the 1-Hour ozone nonattainment area. There are no Tribal lands in the regulated area. Thus, Executive Order 13175 does not apply to this action.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

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.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the applicable 8-hour ozone NAAQS which establishes the level of

protection provided to human health or the environment. This rule will tighten the applicable volatility standard of gasoline during the summer resulting in slightly lower mobile source emissions. Therefore disproportionately high and adverse human health or environmental effects on minority or low-income populations are not an anticipated result.

**VII. Legal Authority and Statutory Provisions**

Authority for this final action is in sections 211(h) and 301(a) of the Clean Air Act, 42 U.S.C. 7545(h) and 7601(a).

**List of Subjects in 40 CFR Part 80**

Administrative practice and procedures, Air pollution control, Environmental protection, Fuel additives, Gasoline, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: February 19, 2010.

**Lisa P. Jackson,**  
*Administrator.*

■ Title 40, chapter I, part 80 of the Code of Federal Regulations is amended as follows:

**PART 80—[AMENDED]**

■ 1. The authority citation for part 80 continues to read as follows:

**Authority:** 42 U.S.C. 7414, 7545 and 7601(a).

■ 2. In § 80.27(a)(2)(ii), the table is amended by revising the entry for Colorado and footnote 2 to read as follows:

**§ 80.27 Controls and prohibitions on gasoline volatility.**

- (a) \* \* \*
- (2) \* \* \*
- (ii) \* \* \*

APPLICABLE STANDARDS <sup>1</sup> 1992 AND SUBSEQUENT YEARS

State	May	June	July	August	September
Colorado <sup>2</sup> .....	9.0	7.8	7.8	7.8	7.8

<sup>1</sup> Standards are expressed in pounds per square inch (psi).

<sup>2</sup> The Colorado Covered Area encompasses the Denver-Boulder-Greeley-Ft. Collins-Loveland, CO, 8-hour ozone nonattainment area (see 40 CFR part 81).

\* \* \* \* \*  
[FR Doc. 2010-4085 Filed 2-26-10; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 64**

[Docket ID FEMA-2010-0003; Internal Agency Docket No. FEMA-8121]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the

program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

**DATES: Effective Dates:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and

administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of