

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
* Revision to Maintenance Plan Update for Jacksonville Area, Florida.	* December 20, 2002	* July 22, 2003	* [Insert citation of publication].	*

[FR Doc. 03-18500 Filed 7-21-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO-001-0072a; FRL-7522-1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 9, 2002, the Governor of Colorado submitted a request to redesignate the Fort Collins “moderate” carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). The Governor also submitted a CO maintenance plan. With the maintenance plan, the Governor submitted revisions to Colorado’s Regulation No. 11 “Motor Vehicle Emissions Inspection Program”, and Colorado’s Regulation No. 13 “Oxygenated Fuels Program”. In this action, EPA is approving the Fort Collins CO redesignation request, the maintenance plan, and the revisions to Regulation No. 11 and Regulation No. 13.

DATES: This direct final rule is effective on September 22, 2003 without further notice, unless EPA receives adverse comments by August 21, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: 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, Air and Radiation Docket and Information Center, United States Environmental Protection Agency, Room B-108, 1301 Constitution Avenue (Mail Code 6102T) NW., 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, 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 action, we are approving a change in the legal designation of the Fort Collins area from nonattainment for CO to attainment, we’re approving the maintenance plan that is designed to keep the area in attainment for CO for the next 13 years, we’re approving changes to the State’s Regulation No. 11 for the implementation of motor vehicle emissions inspections, and we’re approving changes to the State’s Regulation No. 13 for the implementation of the wintertime oxygenated fuels program.

We originally designated Fort Collins 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 Fort Collins area as nonattainment for CO

because the area had been designated as nonattainment before November 15, 1990. Under section 186 of the CAA, Fort Collins was classified as a “moderate” CO nonattainment area with a design value less than or equal to 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. Further information regarding this classification 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 and Regulation No. 13.

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 Fort Collins CO redesignation request, the maintenance plan, and the revisions to Regulation No. 11 and Regulation No. 13 on July 18, 2002. 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 September 30, 2002, and were submitted by the Governor to us on August 9, 2002.

We have evaluated the Governor's submittal and have concluded 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 October 11, 2002, through a letter from Robert E. Roberts, Regional Administrator, to Governor Bill Owens.

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

We have reviewed the Fort Collins CO redesignation request and maintenance plan and believe that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). The following are descriptions of how the section 107(d)(3)(E) requirements are being addressed.

(a) Redesignation Criterion: The Area Must Have Attained the Carbon Monoxide (CO) NAAQS

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. As described in 40 CFR 50.8, the national primary ambient air quality standards for carbon monoxide are 9 parts per million (10

milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year, and 35 parts per million (40 milligrams per cubic meter) for a 1-hour average concentration not to be exceeded more than once per year. 40 CFR 50.8 continues by stating that the levels of CO in the ambient air shall be measured by a reference method based on 40 CFR part 50, Appendix C and designated in accordance with 40 CFR part 53 or an equivalent method designated in accordance with 40 CFR part 53. Attainment of the CO standards is not a momentary phenomenon based on short-term data. Instead, we consider an area to be in attainment if each of the CO ambient air quality monitors in the area doesn't have more than one exceedance of the relevant CO standard over a one-year period. 40 CFR 50.8 and 40 CFR part 50, Appendix C. If any monitor in the area's CO monitoring network records more than one exceedance of the relevant CO standard during a one-year calendar period, then the area is in violation of the CO NAAQS. In addition, our interpretation of the CAA and EPA national policy¹ has been that an area seeking redesignation to attainment must show attainment of the CO NAAQS for at least a continuous two-year calendar period. In addition, the area must also continue to show attainment through the date that we promulgate the redesignation in the **Federal Register**.

Colorado's CO redesignation request for the Fort Collins area is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the redesignation request. As presented in Part II, Chapter 1, section B of the State's maintenance plan, ambient air quality monitoring data for consecutive calendar years 1992 through 2001 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the Fort Collins nonattainment area². All of these data were collected and analyzed as required by EPA (see 40 CFR 50.8 and 40 CFR part 50, Appendix C) and have been archived by the State in our Aerometric Information and Retrieval System (AIRS) national database. Further information on CO monitoring is presented in Part II, Chapter 1, section B of the maintenance plan and in the State's Technical Support Document (TSD). We have evaluated the ambient air quality data and have determined

that the Fort Collins area has not violated the CO standard and continues to demonstrate attainment.

The Fort Collins nonattainment area has quality-assured data showing no violations of the CO NAAQS for 1992 and 1993 which are the years the State used to support the redesignation request. In addition, data from the most recent consecutive two-calendar-year period (*i.e.*, 2000 and 2001) also show no violations. Therefore, we believe the Fort Collins area has met the first component for redesignation: Demonstration of attainment of the CO NAAQS. We note too that the State of Colorado has also committed, in the maintenance plan, to continue the necessary operation of the CO monitor in compliance with all applicable federal regulations and guidelines.

(b) Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

To be redesignated to attainment, section 107(d)(3)(E)(v) requires that an area must meet all applicable requirements under section 110 and part D of the CAA. We interpret section 107(d)(3)(E)(v) to mean that for a redesignation to be approved by us, the State must meet all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of the submission of a complete redesignation request.

1. CAA Section 110 Requirements

On December 12, 1983, we approved the Fort Collins CO element revisions to Colorado's SIP as meeting the requirements of section 110(a)(2) of the CAA (see 48 FR 55284). In addition, we have analyzed the SIP elements that we are approving as part of this action and we have determined they comply with the relevant requirements of section 110(a)(2).

The Fort Collins CO element of the Colorado SIP, that we approved on December 12, 1983 (48 FR 55284), was based on emission reductions from the Federal Motor Vehicle Control Program (FMVCP), Automobile Inspection and Readjustment Program, Improved Public Transit, and Traffic Flow Improvements. The anticipated date for attaining the 8-hour CO NAAQS was December 31, 1987.

Through a letter dated May 26, 1988, we notified the Governor of Colorado that the Fort Collins area did not attain the CO NAAQS by the end of 1987. This

¹ Refer to EPA's September 4, 1992, John Calcagni policy memorandum entitled "Procedures for Processing requests to Redesignate areas to Attainment."

² It is worth noting that the Fort Collins area has never recorded a violation of the 1-hour CO NAAQS.

letter stated that Colorado was to address deficiencies in the SIP and that the State would also have to address requirements in our forthcoming post-1987 policy for carbon monoxide.

EPA did not finalize its post-1987 policy for carbon monoxide because the Clean Air Act (CAA) was amended on November 15, 1990. Fort Collins was designated nonattainment for CO and was required to attain the CO NAAQS by December 31, 1995. *See* 56 FR 56694, November 6, 1991.

2. Part D Requirements

Before the Fort Collins "moderate" CO nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, whether classified or nonclassifiable. Subpart 3 of part D contains specific provisions for "moderate" CO nonattainment areas.

The relevant subpart 1 requirements are contained in sections 172(c) and 176. Our General Preamble (*see* 57 FR 13529 to 13532, April 16, 1992) provides EPA's interpretations of the CAA requirements for "moderate" CO areas that are less than or equal to 12.7 ppm.

The General Preamble (*see* 57 FR 13530, *et seq.*) provides that the applicable requirements of CAA section 172 are 172(c)(3) (emissions inventory), 172(c)(5) (new source review permitting program), 172(c)(7) (the section 110(a)(2) air quality monitoring requirements), and 172(c)(9) (contingency measures). It is also worth noting that we interpreted the requirements of sections 172(c)(2) (reasonable further progress—RFP) and 172(c)(6) (other measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. *See* EPA's September 4, 1992, John Calcagni memorandum entitled, *shull 111* "Procedures for Processing Requests to Redesignate Areas to Attainment", and the General Preamble, 57 FR at 13564, dated April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4) (identification of certain emissions increases) and 172(c)(8) (equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

Regarding the requirements of sections 172(c)(3) (inventory) and 172(c)(9) (contingency measures), please refer to our discussion below of sections 187(a)(1) and 187(a)(3), which are

provisions of subpart 3 of Part D of the CAA that address the same requirements as sections 172(c)(3) and 172(c)(9).

For the section 172(c)(5) New Source Review (NSR) requirements, the CAA requires all nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions will not result from any new or modified stationary major sources and a general offset rule. The State of Colorado has a fully-approved NSR program (59 FR 42500, August 18, 1994) that meets the requirements of CAA section 172(c)(5). The State also has a fully approved Prevention of Significant Deterioration (PSD) program (59 FR 42500, August 18, 1994) that will apply after our approval of the redesignation to attainment.

For the CAA section 172(c)(7) provisions (compliance with the CAA section 110(a)(2) Air Quality Monitoring Requirements), our interpretations are presented in the General Preamble (57 FR 13535). CO nonattainment areas are to meet the "applicable" air quality monitoring requirements of section 110(a)(2) of the CAA.

Information concerning CO monitoring in Colorado is included in the Monitoring Network Review (MNR) prepared by the State and submitted to EPA. Our personnel have concurred with Colorado's annual network reviews and have agreed that the Fort Collins network remains adequate. In Part II, Chapter 2, section E. of the maintenance plan, the State commits to the continued operation of the existing CO monitor (along with the siting of a second CO monitor), according to all applicable Federal regulations and guidelines, currently and after the Fort Collins area is redesignated to attainment for CO.

Section 176 of the CAA contains requirements related to conformity. Although EPA's regulations (*see* 40 CFR 51.396) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment or subject to an EPA-approved maintenance plan, we have decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's 1996 approval of the Boston carbon monoxide redesignation. (*See* 61 FR 2918, January 30, 1996.)

The relevant subpart 3 provisions were created when the CAA was amended on November 15, 1990. The new CAA requirements for "moderate" CO areas, such as Fort Collins, required that the SIP be revised to include a 1990 base year emissions inventory (CAA

section 187(a)(1)), contingency provisions (CAA section 187(a)(3)), corrections to existing motor vehicle inspection and maintenance (I/M) programs (CAA section 187(a)(4)), periodic emission inventories (CAA section 187(a)(5)), and the implementation of an oxygenated fuels program (CAA section 211(m)(1)). How the State met these requirements and our approvals, are described below:

A. 1990 base year emissions inventory (CAA section 187(a)(1)): The Governor submitted a 1990 base year emissions inventory for Fort Collins on December 31, 1992, with revisions being submitted on March 23, 1995. We approved this 1990 base year CO emissions inventory on December 23, 1996 (*see* 61 FR 67466).

B. Contingency provisions (CAA section 187(a)(3)): The Governor submitted a contingency measure, enhanced motor vehicle inspection and maintenance, on February 18, 1994. We approved this contingency measure on December 23, 1997 (*see* 62 FR 67006).

C. Corrections to the Fort Collins basic I/M program (CAA section 187(a)(4)): On January 14, 1994, and June 24, 1994, the Governor submitted revisions to the Colorado basic I/M program portion of its SIP which included the program in Fort Collins. We approved these basic I/M program revisions on March 19, 1996 (*see* 61 FR 11149).

D. Periodic emissions inventories (CAA section 187(a)(5)): As the Governor did not submit a complete redesignation request and maintenance plan before September 30, 1995, a periodic emission inventory (for calendar year 1993) was required for Fort Collins. On September 16, 1997, the Governor submitted a SIP revision for a 1993 periodic emission inventory for Fort Collins. We approved this revision on July 15, 1998 (*see* 63 FR 38087). On May 10, 2000, the Governor submitted a subsequent 1996 periodic emission inventory for Fort Collins. We approved this revision on October 24, 2000 (*see* 65 FR 63546).

E. Oxygenated fuels program implementation (CAA section 211(m)): To address the oxygenated fuels requirements of the CAA, the Governor initially submitted a revision to Colorado's Regulation No. 13 on November 27, 1992. We approved this revision on July 24, 1994 (*see* 59 FR 37698). Regulation 13 was again revised, to shorten the oxygenated fuels program season, and the Governor submitted further revisions to Regulation No. 13 on September 29, 1995, and December 22, 1995. We approved these revisions on March 10, 1997 (*see* 62 FR 10690).

The most recent changes by the State to Regulation No. 13 to shorten the oxygenated fuels program season, that affected the Fort Collins area, were submitted by the Governor on August 19, 1998, in conjunction with the Colorado Springs CO redesignation to attainment. We approved these revisions on August 25, 1999 (see 64 FR 46279).

(c) Redesignation Criterion: The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k).

As noted above, EPA previously approved SIP revisions for the Fort Collins CO nonattainment area that were required by the 1990 amendments to the CAA. In this action, we are also approving the maintenance plan and revisions to Colorado's Regulation No. 11 and Regulation No. 13 and the State's commitment to maintain an adequate monitoring network (contained in the maintenance plan.) Thus, with this final rule to approve the Fort Collins redesignation request, maintenance plan, and revisions to Regulation No. 11 and Regulation No. 13, we will have fully approved the Fort Collins CO element of the SIP under section 110(k) of the CAA.

(d) Redesignation Criterion: The Area Must Show That the Improvement in Air Quality Is Due to Permanent and Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

The CO emissions reductions for Fort Collins, that are further described in Part II, Chapter 1, sections A.3 of the Fort Collins maintenance plan, were achieved primarily through the Federal Motor Vehicle Control Program (FMVCP), a basic motor vehicle inspection and maintenance (I/M) program, oxygenated fuels, and control of wood burning emissions.

In general, the FMVCP provisions require vehicle manufacturers to meet more stringent vehicle emission

limitations for new vehicles in future years. These emission limitations are phased in (as a percentage of new vehicles manufactured) over a period of years. As new, lower emitting vehicles replace older, higher emitting vehicles ("fleet turnover"), emission reductions are realized for a particular area such as Fort Collins. For example, EPA promulgated lower hydrocarbon (HC) and CO exhaust emission standards in 1991, known as Tier I standards for new motor vehicles (light-duty vehicles and light-duty trucks) in response to the 1990 CAA amendments. These Tier I emissions standards were phased in with 40% of the 1994 model year fleet, 80% of the 1995 model year fleet, and 100% of the 1996 model year fleet.

As stated in Part II, Chapter 1, section A.3 of the maintenance plan, significant additional emission reductions were realized from Fort Collins's basic I/M program. Colorado's Regulation No. 11, "Motor Vehicle Emissions Inspection Program", contains a full description of the requirements for the Fort Collins I/M program. The program requires biennial inspections of vehicles at independent inspection stations. We note that further improvements to the Fort Collins area's basic I/M program, to meet the requirements of EPA's November 5, 1992, (57 FR 52950) I/M rule, were approved by us into the SIP on March 19, 1996 (61 FR 11149).

Oxygenated fuels are gasolines that are blended with additives that increase the level of oxygen in the fuel and, consequently, reduce CO tailpipe emissions. Colorado's Regulation 13, "Oxygenated Fuels Program", contains the oxygenated fuels provisions for the Fort Collins nonattainment area. Regulation 13 requires all Fort Collins-area gas stations to sell fuels containing a 2.7% minimum oxygen content (by weight) during the wintertime CO high pollution season. The use of oxygenated fuels has significantly reduced CO emissions and contributed to the area's attainment of the CO NAAQS.

Fort Collins has also been implementing the requirements of Colorado's Regulation No. 4 "New Wood Stoves and the use of Certain Woodburning Appliances During High Pollution Days." Regulation No. 4 for Fort Collins requires all new wood burning stoves and fireplace inserts sold to meet both State and Federal emission control standards.

We have evaluated the various State and Federal control measures, the original 1990 base year emission inventory, and the 1993 and 1996 periodic emission inventories, and believe that the improvement in air quality in the Fort Collins

nonattainment area has resulted from emission reductions that are permanent and enforceable.

(e) Redesignation Criterion: The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A

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 addition, we issued further 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 (hereafter the September 4, 1992 Calcagni Memorandum).

In this **Federal Register** action, EPA is approving the maintenance plan for the Fort Collins CO nonattainment area because we believe, as detailed below, that the State's maintenance plan submittal meets the requirements of section 175A and is consistent with our interpretations of the CAA, as reflected in the documents referenced above. Our analysis of the pertinent maintenance plan requirements, with reference to the Governor's August 9, 2002, submittal, is provided as follows:

1. Emissions Inventories—Attainment Year and Projections

EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble (see 57 FR 13498, April 16, 1992) and the September 4, 1992, Calcagni Memorandum referenced above. 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. For the Fort Collins area, the State selected the emissions inventory approach for demonstrating maintenance of the CO NAAQS.

The maintenance plan that the Governor submitted on August 9, 2002, includes comprehensive inventories of CO emissions for the Fort Collins area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State selected 1992 as the year from which to develop the attainment year inventory

and included interim-year projections out to 2015. More detailed descriptions of the 1992 attainment year inventory and the projected inventories are documented in the maintenance plan in Part II, Chapter 2, section A, Table 2 and Table 3, 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 1992 attainment year, the interim projected years, and the final maintenance year of 2015 are provided in Table III-1 below.

TABLE III-1.—SUMMARY OF CO EMISSIONS IN TONS PER DAY FOR FORT COLLINS

	1992	1998	2005	2010	2015
Point Sources	0.7	0.4	0.5	0.6	0.6
Area Sources	13.8	13.9	4.5	4.7	4.8
Non-Road Mobile Sources	9.4	10.5	12.4	14.2	17.0
On-Road Mobile Sources	94.6	80.9	91.3	75.0	71.4
Total	118.4	105.7	108.8	94.5	93.9

2. Demonstration of Maintenance—Projected Inventories

As we noted above, total CO emissions were projected forward by the State for the years 1998, 2005, 2010, and 2015. We note the State's approach for developing the projected inventories follows EPA guidance on projected emissions and we believe they are acceptable.³ The projected inventories show that CO emissions are not estimated to exceed the 1992 attainment level during the time period 1992 through 2015 and, therefore, the Fort Collins area has satisfactorily demonstrated maintenance.

We note in Table III-1 there are significant reductions projected in years 2005, 2010, and 2015 for 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 in view of the information provided in Attachment 3 of the State's TSD. Attachment 3 is entitled "Outdoor Air Quality Survey, Spring 2002, Report: City of Fort Collins" and includes survey data with special emphasis on woodburning and woodsmoke. Further information on these projected emissions may also be found in the State's TSD.

3. Changes to Regulation No. 11 and Regulation No. 13 for the Maintenance Period

As described in Part II, Chapter 2, Section B, of the maintenance plan, as of January 1, 2004, the Basic I/M program (of Regulation No. 11) and the oxygenated fuels program (Regulation No. 13) will not be a part of the Federally enforceable SIP for the Fort Collins area. No CO emission reduction credit for these programs has been taken for the years 2005, 2010, and 2015 in the maintenance demonstration. The mobile source emissions presented in Table III-1 also reflect the elimination of these programs for the Fort Collins area.

The State performed an analysis (Section of the State's TSD entitled Fort Collins Urban Growth Area Carbon Monoxide Maintenance Plan Mobile Source Carbon Monoxide Emissions Inventories") and determined that both the Basic I/M and the oxygenated fuels program could be eliminated for the Fort Collins area without jeopardizing maintenance of the CO NAAQS. This analysis was performed using EPA's MOBILE6 emission factor model and the latest transportation and planning data from the North Front Range Transportation and Air Quality Planning Council's (NFRTAQPC) 2025 transportation plan. The methodology and analysis were reviewed by us and we have determined they are acceptable. The results of the modeling were presented in the revised maintenance plan's "Table 2," and are also included in our Table III-1 above. Based on our

review of the State's analysis, we agree that the Fort Collins area continues to demonstrate maintenance of the CO NAAQS and we approve the elimination of the Basic I/M program and oxygenated fuels program for Larimer County and the Fort Collins area.

4. Monitoring Network and Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Fort Collins 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 Fort Collins CO maintenance plan; Part II, Chapter 2, sections E and F.2.

In Part II, Chapter 2, section E the State commits to continue the operation of the CO monitor (in Section E, the State commits to site a second CO monitor) in the Fort Collins area and to annually review this monitoring network and make changes as appropriate.

In Part II, Chapter 2, section F.2, the State commits to track mobile sources' CO emissions (which are the largest component of the inventories) through the ongoing regional transportation planning process that is done by NFRTAQPC in coordination with the Colorado Department of Transportation (CDOT), the Colorado Air Pollution Control Division (APCD), the AQCC, and EPA.

Based on the above, we are approving these commitments as satisfying the relevant requirements and we note that

³ 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.

this final rulemaking approval will render the State's commitments federally enforceable.

5. 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.

As stated in Part II, Chapter 2, section F of the maintenance plan, the contingency measures for the Fort Collins area will be triggered by a violation of the CO NAAQS. (However, the maintenance plan does note that an exceedance of the CO NAAQS may initiate a voluntary, local process by the NFRTAQPC and APCD to identify and evaluate potential contingency measures.)

The APCD, in coordination with the NFRTAQPC and AQCC, will initiate a subcommittee process to begin evaluating potential contingency measures no more than 60 days after being notified by the APCD that a violation of the CO NAAQS has occurred. The subcommittee will present recommendations to the NFRTAQPC and APCD within 120 days of notification and the NFRTAQPC and APCD will present recommended contingency measures to the AQCC within 180 days of notification. The AQCC will then hold a public hearing to consider the contingency measures recommended by the NFRTAQPC and APCD, along with any other contingency measures that the AQCC believes may be appropriate to effectively address the violation of the CO NAAQS. The necessary contingency measures will be adopted and implemented within one year after the violation occurs.

The potential contingency measures are identified in Part II, Chapter 2, section F, of the Fort Collins CO maintenance plan. As required by section 175A(d) of the CAA, these include all measures that were part of the nonattainment area plan that have been removed from the SIP as part of the redesignation—in this case, the Basic I/M program as it appeared in Regulation No. 11 prior to July 18, 2002, with the addition of any on-board diagnostics components as required by Federal law, and the oxygenated fuels program as it appeared in Regulation No. 13 prior to

July 18, 2002. In addition, the maintenance plan mentions the following as other possible contingency measures: An enhanced I/M program, transportation control measures, and mandatory woodburning restrictions. The maintenance plan indicates that the State may evaluate other potential strategies to address any future violations in the most appropriate and effective manner possible.

Based on the above, we find that the contingency measures provided in the State's Fort Collins CO maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

6. 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. This provision for revising the maintenance plan is contained in Part II, Chapter 2, section G of the Fort Collins CO maintenance plan.

7. Removal of the CAA Section 172(c)(9) Contingency Measure

With the CAA Amendments of 1990, the Fort Collins area was designated nonattainment for CO and classified as "moderate" (see 56 FR 56694, November 6, 1991). As the Fort Collins area was designated nonattainment for CO, the nonattainment plan provisions of CAA section 172 (among other sections of the CAA) applied. Among other requirements, CAA section 172(c)(9) required mandatory contingency measures that were to go automatically into place should the area not attain the CO standard by its prescribed attainment date of December 31, 1995. In response to this requirement, the Governor submitted a SIP revision on February 18, 1994, that included an enhanced I/M program as the identified contingency measure. We approved this contingency measure, as meeting the requirements of section 172(c)(9) of the CAA, on December 23, 1997 (see 62 FR 67006).

As the Fort Collins CO nonattainment area attained the CO standard before December 31, 1995, this contingency measure was never implemented and is no longer necessary. Should the Fort Collins area violate the CO standard after being Federally redesignated to

attainment, the contingency measures identified in Part II, Chapter 2, section F, and their implementation mechanism, are considered by us to be sufficient. Therefore, we are removing the identified contingency measure from the SIP that we had previously approved on December 23, 1997 (see 62 FR 67006).

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 sections 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.

Part II, Chapter 2, section D and Table 4 of the maintenance plan define the CO motor vehicle emissions budgets in the Fort Collins CO attainment/maintenance area as 99 tons per day for 2005 through 2009, 98 tons per day for 2010 through 2014, and 94 tons per day for 2015 and beyond.

The transportation conformity motor vehicle emissions budgets were derived by taking the difference between the attainment year (1992) total emissions and the projected future years' total emissions. This difference is the "safety margin," part or all of which may be added to projected mobile sources CO emissions to arrive at a motor vehicle emissions budget to be used for transportation conformity purposes. The safety margins, less one ton per day, were added to projected mobile sources CO emissions for 2005, 2010, and 2015. The derivation and determination of safety margins and motor vehicle emissions budgets for the Fort Collins CO maintenance plan is further illustrated in Table IV–1 below and in Part II, Chapter 2, Table 4 of the maintenance plan:

TABLE IV-1: MOBILE SOURCES EMISSIONS, SAFETY MARGINS, AND MOTOR VEHICLE EMISSIONS BUDGETS IN TONS OF CO PER DAY (TPD)

Year	Mobile sources emissions (TPD)	Total emissions (TPD)	Math	Margin of safety (TPD)	Motor vehicle emissions budget (TPD)
1992	95	118	N/A	N/A
2005	91	109	118-109 = 9 9-1 = 8. 91+8 = 99.	8	99
2010	75	94	118-94 = 24 24-1 = 23. 75+23 = 98.	23	98
2015	71	94	118-94 = 24 24-1 = 23. 71+23 = 94.	23	94

NOTE: N/A = Not Applicable.

Our analysis indicates that the above figures are consistent with maintenance of the CO NAAQS throughout the maintenance period. Therefore, we are approving the 99 tons per day for 2005 through 2009, 98 tons per day for 2010 through 2014, and 94 tons per day for 2015 and beyond, CO emissions budgets for the Fort Collins 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 Fort Collins CO budgets for adequacy using the criteria in 40 CFR 93.118(e)(4), and determined that the budgets were adequate for conformity purposes. EPA's adequacy determination was made in a letter to the Colorado APCD on January 15, 2003, and was announced in the **Federal Register** on February 4, 2003 (68 FR 5638). As a result of this adequacy finding, the budgets took effect for conformity determinations in the Fort Collins area on February 19, 2003. However, we are not bound by that determination in acting on the maintenance plan.

In addition to the above, the State has made a commitment regarding transportation conformity, in Part II, Chapter 2, section D of the maintenance plan. Because informal roll-forward analyses, prepared by the State, indicate that the 2015 CO emissions budget may be exceeded by 2030, the State has committed to the re-implementation of the Basic I/M program (with any Federally required on-board diagnostic tests) for the Fort Collins area in 2026. This commitment by the State is included in the maintenance plan for purposes of 40 CFR 93.122(a)(3)(iii), which provides that emissions reduction credit from such programs may be included in the transportation conformity emissions analysis if the maintenance plan contains such a

written commitment. We agree with this interpretation of 40 CFR 93.122(a)(3)(iii) and are making this State commitment Federally enforceable with our approval of the Fort Collins CO maintenance plan.

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

Colorado's Regulation No. 11 is entitled "Motor Vehicle Emissions Inspection Program". In developing the Fort Collins CO maintenance plan, the State evaluated a number of options for revising the current motor vehicle emissions inspection program. The final decision, based on the use of our Mobile6 emission factor model, was to eliminate the Basic I/M program from the Federal SIP beginning on January 1, 2004. A description of the State's process for the evaluation of potential options for Regulation No. 11 is found in Part I, Chapter 2, section B of the Governor's submittal. We note that Part I, Chapter 2 is only for informational purposes and was not submitted as a revision to the SIP. Part II, Chapter 2, is the maintenance plan that we are approving and it reflects the AQCC-adopted revisions, as an amendment to the SIP, to Regulation No. 11. These revisions to Regulation No. 11 were submitted, as a separate revision to the SIP, for our approval in conjunction with redesignation request and maintenance plan.

The revisions adopted by the AQCC on July 18, 2002, and submitted by the Governor on August 9, 2002, remove the Fort Collins area component of the Colorado automobile inspection and maintenance program ("AIR Program") from the Federally-approved SIP, but does not make any change in the State laws implementing the program. This means that the "AIR Program" for the implementation of the Basic I/M program will remain in full force and

effect as a State-only program under State laws, but it will not be Federally-enforceable after January 1, 2004. The maintenance plan reflects this change in Regulation No. 11 in that the mobile source CO emissions were calculated without the CO emissions reduction benefit of a Basic I/M program starting in 2004 and continuing through 2015. We note that even with the elimination of the Basic I/M program and the elimination of the Oxygenated Fuels Program, discussed below, for the Fort Collins area beginning on January 1, 2004, the area was still able to meet our requirements to demonstrate maintenance of the CO standard through 2015.

We have reviewed and are approving these State-adopted changes to Regulation No. 11.

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). The purpose of this regulation is to reduce CO emissions from gasoline powered motor vehicles in the Fort Collins area through the wintertime use of oxygenated gasolines. Section 211(m) of the CAA originally required the State to implement an oxygenated fuels program in the Fort Collins area. Section 211(m) states that the oxygenated fuels program must cover no less than a four month period each year unless EPA approves a shorter period. We can approve a shorter implementation period if a State submits a demonstration that a reduced implementation period will still assure that there will be no exceedances of the CO NAAQS outside of this reduced period. This was done previously when we approved revisions to Regulation No. 13 for the Denver area that shortened the oxygenated fuels season and

oxygenate content (*see* 62 FR 10690, March 10, 1997 and 64 FR 46279, August 25, 1999). When an area is redesignated to attainment, the oxygenated fuels program may be further shortened or eliminated entirely as long as the State is able to show the program is not needed to demonstrate maintenance of the CO NAAQS (*see* 65 FR 80779, December 22, 2000).

In developing the Fort Collins CO maintenance plan, the State evaluated options for revising the current oxygenated gasoline program. A description of the State's process for the evaluation of potential options for Regulation No. 13 is found in Part I, Chapter 2, section B of the Governor's August 9, 2002, submittal. We note that Part I, Chapter 2 is only for informational purposes and was not submitted as a revision to the SIP. Part II, Chapter 2, is the maintenance plan that we are approving and it reflects the AQCC-adopted revisions, as an amendment to the SIP, to Regulation No. 13. These revisions to Regulation No. 13 were submitted, as a separate revision to the SIP, for our approval in conjunction with the redesignation request and maintenance plan.

The current EPA-approved oxygenated gasoline program for the Fort Collins area has the following three requirements: (1) The control period is from November 1st through February 7th of each winter season, (2) an oxygen content of at least 2.0% by weight is required from November 1st through November 7th, (3) and an oxygen content of at least 2.7% by weight is required from November 8th through February 7th.

In conjunction with the submittal of the Fort Collins CO maintenance plan, the State of Colorado is seeking EPA's approval of revisions to Regulation No. 13 that would eliminate the oxygenated fuels program for the Fort Collins area beginning on January 1, 2004.

As we discussed above, and as presented in Part II, Chapter 2, Table 2 of the maintenance plan, the removal of the CO emission reductions associated with the implementation of Regulation No. 13 were incorporated by the State into the emission projections, using our Mobile6 emissions model, beginning in 2004 and were projected through the final maintenance year of 2015. Even with the elimination of both Regulation No. 11 and Regulation No. 13 for the Fort Collins area starting in 2004, maintenance of the CO NAAQS was successfully demonstrated.

In addition to the revision noted above for the Fort Collins area, the State made several other minor changes to Regulation No. 13 that were also

adopted by the AQCC at the July 18, 2002, public hearing. These changes involved: (1) Section I.D.—the deletion of several out-dated definitions and the addition of necessary definitions for the newly-created Broomfield County, (2) section II. A.—Greeley changes and the addition of Broomfield County, (3) sections II. B and II. C.—the deletion of the previous Denver area's maximum blending requirement, (4) section II. D.—, the removal of the obsolete "Pre-Program Registration Requirements" (dating from 1995) for the Denver area, and (5) section III. G.—changes to the State's "Statement of Basis and Purpose". We note, though, EPA does not Federally approve the State's "Statement of Basis and Purpose."

We have reviewed these changes to Regulation No. 13, that the State adopted on July 18, 2002, and the Governor submitted on August 9, 2002. We are approving these revisions as they are consistent with maintenance of the CO NAAQS for the Fort Collins area and meet the requirements of section 211(m) of the CAA.

VII. Consideration of Section 110(l) of the CAA

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. As stated above, the Fort Collins area has shown continuous attainment of the CO NAAQS since 1992 and has met the applicable Federal requirements for redesignation to attainment. The maintenance plan and associated SIP revisions to Colorado's Regulation No. 11 and Regulation No. 13 will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

VIII. Final Action

In this action, EPA is approving the Fort Collins carbon monoxide redesignation request, maintenance plan, and the revisions to Regulation No. 11 and Regulation No. 13.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective September 22, 2003 without further notice unless the

Agency receives adverse comments by August 21, 2003.

If EPA receives such comments, then we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 22, 2003 and no further action will be taken on the proposed rule.

Statutory and Executive Order Reviews

(a) Executive Order 12866, Regulatory Planning and Review

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

(b) Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all "collections of information" by EPA. The act defines collection of information" as a requirement for "answers to identical reporting or recordkeeping requirements imposed on ten or more persons" 44 U.S.C. 3502(3)(A). The Paperwork Reduction Act does not apply as 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.*)

(c) Regulatory Flexibility Act

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 rule 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.

(d) Unfunded Mandates Reform Act

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 the approval action promulgated 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.

(e) Executive Order 13132, Federalism

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 a state rule 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.

(f) Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications."

This final rule does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. This action does not involve or impose any requirements that affect Indian Tribes. Thus, Executive Order 13175 does not apply to this final rule.

(g) Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

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.

(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 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) Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 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. section 804(2). This rule will be effective September 22, 2003 unless EPA receives adverse written comments by August 21, 2003.

(k) 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 September 22, 2003. 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: June 23, 2003.

Robert E. Roberts,

Regional Administrator, Region VIII.

■ Parts 52 and 81, title 40, chapter I, 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)(99) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(99) On August 9, 2002, the Governor of Colorado submitted SIP revisions to Colorado's Regulation No. 11 "Motor Vehicle Emissions Inspection Program" that eliminate the requirement in the SIP for the implementation of a motor vehicle inspection and maintenance program in Larimer County (which includes the Fort Collins area) after January 1, 2004. On August 9, 2002, the Governor also submitted SIP revisions to Colorado's Regulation No. 13 "Oxygenated Fuels Program" that eliminate the oxygenated fuel requirements for Larimer County (which includes the Fort Collins area) after January 1, 2004, and make changes to sections I.D., II.A., II.B., II.C., II.D., II.E., II.F., II.G., and II.H. On August 9, 2002, the Governor also submitted SIP revisions to Colorado's State Implementation Plan Specific Regulations for Nonattainment and Attainment/Maintenance Areas (Local Elements) that eliminate Clean Air Act

section 172(c)(9) carbon monoxide contingency measures for the Fort Collins area. We originally approved these contingency measures on December 23, 1997, and our approval was codified in paragraph (c)(71) of this section.

(i) Incorporation by reference.

(A) Regulation No. 11 "Motor Vehicle Emissions Inspection Program", 5 CCR 1001–13, Part A.I, as adopted on July 18, 2002, and effective September 30, 2002.

(B) Regulation No. 13 "Oxygenated Fuels Program", 5 CCR 1001–16, except for section III, as adopted on July 18, 2002, effective September 30, 2002, which supersedes and replaces all prior versions of Regulation No. 13.

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

§ 52.349 Control strategy: Carbon monoxide.

* * * * *

(h) Revisions to the Colorado State Implementation Plan, carbon monoxide NAAQS Redesignation Request and Maintenance Plan for Fort Collins entitled "Carbon Monoxide Redesignation Request and Maintenance Plan for the Fort Collins Area," excluding Part I—Chapter 1 and Part I—Chapter 2, as adopted by the Colorado Air Quality Control Commission on July 18, 2002, State effective September 30, 2002, and submitted by the Governor on August 9, 2002.

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 "Fort Collins Area" to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * *				
Fort Collins Area:				
Larimer County (part)	Sept. 22, 2003	Attainment.		
Fort Collins Urban Growth Area Boundary as adopted by the City of Fort Collins and the Larimer County Commissioners and in effect as of July 30, 1991.				
* * *				

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

* * * * *

[FR Doc. 03-18303 Filed 7-21-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[FRL-7530-8]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Removal of immediate final rule.

SUMMARY: EPA is removing the immediate final rule, Texas: Final Authorization of State Hazardous Waste Management Program Revisions, published on April 15, 2003, at 68 FR 18126, which authorized changes to Texas' hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA stated in the immediate final rule that if EPA received written comments that opposed this authorization during the comment period, EPA would publish a timely notice of withdrawal in the **Federal Register**. Since EPA did receive comments that opposed this authorization, EPA is removing the immediate final rule. EPA will address these comments in a subsequent final action.

DATES: As of July 22, 2003. EPA removes the immediate final rule published on April 15, 2003, at 68 FR 18126.

FOR FURTHER INFORMATION CONTACT:

Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8533.

SUPPLEMENTARY INFORMATION: EPA's removal of this immediate final rule is based on the Agency receiving written comments that opposed this authorization. The EPA is removing the immediate final rule, Texas: Final Authorization of State Hazardous Waste Management Program Revisions, published on April 15, 2003, at 68 FR 18126, which authorized changes to Texas' hazardous waste rules. EPA stated in the immediate final rule that if EPA received written comments that opposed this authorization during the comment period, EPA would publish a timely notice of withdrawal in the **Federal Register**. The immediate final rule became effective June 16, 2003.

However, since EPA received comments that opposed this action, EPA is today removing the immediate final rule. EPA will address the comments received during the comment period in a subsequent final action.

Dated: July 11, 2003.

Richard E. Greene,*Regional Administrator, Region 6.*

[FR Doc. 03-18293 Filed 7-21-03; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL MARITIME COMMISSION**46 CFR Part 530**

[Docket No. 03-03]

Amendment to Service Contract Regulations

July 17, 2003.

AGENCY: Federal Maritime Commission.**ACTION:** Final rule.

SUMMARY: The Federal Maritime Commission is amending its regulations on the electronic filing of service contracts for ocean transportation under the Shipping Act of 1984 ("Shipping Act") (46 U.S.C. app. 1701 *et seq.*), as amended by the Ocean Shipping Reform Act of 1998 ("OSRA"), to add a provision which permits persons authorized to transmit electronically service contract filings for vessel-operating common carriers, conferences and agreements, to correct, within 48 hours, an original service contract filing or an amendment that is defective due to electronic transmission errors. The revision allows a "corrected transmission" of the original service contract or amendment submission to be designated as such and filed in the Commission's electronic service contract filing system, SERVCON.

EFFECTIVE DATE: September 8, 2003.**FOR FURTHER INFORMATION CONTACT:**

Florence A. Carr, Director, Bureau of Trade Analysis, Federal Maritime Commission, 800 North Capitol Street, NW., Room 940, Washington, DC 20573, 202-523-5796, E-mail: florence@fmc.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Federal Maritime Commission initiated this proceeding by a Notice of Proposed Rulemaking ("NPR") published in the **Federal Register** on April 2, 2003, 68 FR 15978. The NPR solicited comment on the proposed rule from the public. Three comments were received. Comments were submitted by Distribution-Publications, Inc. ("DPI")

and Pacific Coast Tariff Bureau ("PCTB"), both tariff publishers. Attorney Howard Levy also filed a comment.

All of the comments were generally supportive of the proposed rule. Both tariff publishers endorsed the scope of errors to be corrected under the rule. The comments of DPI specifically noted that the 48-hour window to correct electronic transmission errors in service contract filings is the right amount of time for the correction process. The comments of PCTB also included a suggestion that the SERVCON system should be altered further to reintroduce the ability of a filer to completely withdraw a filed service contract or amendment that contains erroneous matter.

Discussion

Section 8(c) of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 ("OSRA"), 46 U.S.C. app. 1707(c), and the Commission's current service contract regulations, 46 CFR part 530, subpart A, require service contracts between shippers and ocean common carriers in the foreign commerce of the United States to be filed electronically with the Commission on a confidential basis. Only an "authorized person," as defined in 46 CFR 530.3(c), can access the confidential section of the Commission's electronic service contract filing system, SERVCON, available via the Commission's website. Some carriers use individual employees as the authorized person to file their service contracts; however, the majority of carriers authorize third parties to make their service contract filings. The filings may consist of an original service contract or an amendment to an existing service contract.

Current regulations provide for the amendment, correction, and cancellation of service contract filings (46 CFR 530.10). This final rule will provide filers the ability to correct purely electronic "transmission errors" made when filing either the original service contract or an amendment to a service contract into SERVCON, or errors made in the process of converting the service contract filing into electronic format for submission to the SERVCON system.

Under this final rule only errors resulting from electronic transmission and data conversion for SERVCON format may be corrected. Examples of substantive service contract changes that are not permitted under the new 46 CFR 530.10(d) are: Change of rates; deletion of a port or point to be served or a commodity to be carried under the