absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 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 October 4, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: July 27, 2004.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

■ Part 52, chapter I, title 40 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 WW—Washington

■ 2. Section 52.2470 is amended by adding paragraph (c)(83) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(83) On December 17, 2003, the Washington Department of Ecology submitted carbon monoxide and ozone second 10-year maintenance plans. The State's maintenance plans, meet the requirements of the Clean Air Act.

(i) Incorporation by reference.

(A) Puget Sound Clean Air Agency, Regulation I, Section 8.06, Outdoor Burning Ozone Contingency Measure, as in effect December 19, 2002.

(B) Puget Sound Clean Air Agency, Regulation II, Section 2.09, Oxygenated Gasoline Carbon Monoxide Contingency Measures and Fee Schedule, as in effect December 19, 2002.

(C) Puget Sound Clean Air Agency, Regulation II, Section 2.10, Gasoline Station Ozone Contingency Measure, as in effect December 19, 2002.

■ 3. Amend § 52.2475 by adding paragraph (a)(3) to read as follows:

§ 52.2475 Approval of plans.

(a) * * *

(3) Central Puget Sound.

(i) EPA approves as a revision to the Washington State Implementation Plan, the Central Puget Sound Carbon Monoxide and Ozone Second 10-Year Maintenance Plans submitted by the State on December 17, 2003.

(ii) [Reserved]

* * * * *

[FR Doc. 04–17782 Filed 8–4–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA217–4230a; FRL–7797–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to adverse comments, EPA is withdrawing the direct final rule to amend Pennsylvania's ten-year plan to maintain the 1-hour ozone national ambient air quality standard (NAAQS) in the Pittsburgh-Beaver Valley ozone maintenance area (the Pittsburgh area). In the direct final rule published on July 1, 2004 (69 FR 39854), we stated that if we received adverse comment by August 2, 2004, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments. EPA will address the comments received in a subsequent final action based upon the proposed action also published on July 1, 2004. EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The Direct final rule is withdrawn as of August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Larry Budney, Energy, Radiation and Indoor Environment Branch, Mail code 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; or by phone at (215) 814–2184.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 28, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

■ Accordingly, the addition of § 52.2020(c)(226) is withdrawn as of August 5, 2004.

[FR Doc. 04–17781 Filed 8–4–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO-001–0076a, CO-001–0077a; FRL–7784–9]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Designation of Areas for Air Quality Planning Purposes, Lamar and Steamboat Springs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the State of Colorado on July 31, 2002, for the purpose of redesignating the Lamar, Colorado and Steamboat Springs, Colorado areas from

nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}) under the 1987 standards. The Governor's submittal, among other things, documents that the Lamar and Steamboat Springs areas have attained the PM_{10} national ambient air quality standards (NAAQS), requests redesignation to attainment and includes a maintenance plan for each of the areas demonstrating maintenance of the PM_{10} NAAQS for ten years. EPA is approving these redesignation requests and maintenance plans because Colorado has met the applicable requirements of the Clean Air Act (CAA), as amended. Upon the effective date of this approval, the Lamar and Steamboat Springs areas will be designated attainment for the PM_{10} NAAQS. This action is being taken under sections 107, 110, and 175A of the Clean Air Act.

DATES: This rule is effective on October 4, 2004, without further notice, unless EPA receives adverse comment by September 7, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing 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, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, CO 80202. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in section (I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Libby Faulk, EPA, Region VIII, (303) 312–6083.

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

Table of Contents

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* EPA has established an official public rulemaking file for this action under CO–001–0076a, CO–001–0077a. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air and Radiation Program, EPA Region 8, 999 18th Street, Suite 300, Denver, CO. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. You may view the public rulemaking file at the Regional Office Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays. Copies of the Incorporation by Reference material are also available at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460.

2. *Copies of the State submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency.* Copies of the State documents relevant to this action are also available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

3. Electronic Access. You may access this **Federal Register** document electronically through the Regulations.gov web site located at *http://www.regulations.gov* where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text ''Public comment on proposed rulemaking CO–001–0076a, CO–001–0077a'' in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. Electronically. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. E-mail. Comments may be sent by electronic mail (e-mail). Please send any comments to *long.richard@epa.gov* and *faulk.libby@epa.gov* and include the text ''Public comment on proposed rulemaking CO–001–0076a, CO–001–0077a'' in the subject line. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through

''Regulations.gov'' (see below), EPA's e-mail system will automatically capture your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. Regulations.gov. Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at *http://www.regulations.gov,* then click on the button ''TO SEARCH FOR REGULATIONS CLICK HERE,'' and select Environmental Protection Agency as the Agency name to search on. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail. Send your comments to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Please include the text ''Public comment on proposed rulemaking CO–001–0076a, CO–001–0077a'' in the subject line on the first page of your comment.

3. By Hand Delivery or Courier. Deliver your comments to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding federal holidays.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT**

II. EPA's Final Action

A. What Action Is EPA Taking in This Direct Final Rule?

We are approving the Governor's submittal of July 31, 2002, that requests redesignation for the Lamar and Steamboat Springs nonattainment areas to attainment for the 1987 PM_{10} standards. Included in Colorado's submittal are changes to the ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Areas)'' which we are approving, under section 110 of the CAA, into Colorado's SIP. We are also approving the maintenance plans for the Lamar and Steamboat Springs PM_{10} nonattainment areas, which were submitted with Colorado's July 31, 2002 redesignation requests. We are approving these requests and maintenance plans because Colorado has adequately addressed all of the requirements of the CAA for redesignation to attainment applicable to the Lamar and Steamboat Springs PM_{10} nonattainment areas. Upon the effective date of this action, the Lamar and Steamboat Springs areas' designation status under 40 CFR part 81 will be revised to attainment.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective October 4, 2004 without further notice unless the Agency receives adverse comments by September 7, 2004. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Summary of Redesignation Request and Maintenance Plan

A. What Requirements Must Be Followed for Redesignations to Attainment?

In order for a nonattainment area to be redesignated to attainment, the following conditions in section 107(d)(3)(E) of the CAA must be met:

(i) We must determine that the area has attained the NAAQS;

(ii) The applicable implementation plan for the area must be fully approved under section 110(k) of the CAA;

(iii) We 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 and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) We must fully approve a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) The State containing such an area must meet all requirements applicable to the area under section 110 and part D of the CAA.

Our September 4, 1992 guidance entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' outlines how to assess the adequacy of redesignation requests against the conditions listed above.

The following is a brief discussion of how Colorado's redesignation requests and maintenance plans meet the requirements of the CAA for redesignation of the Lamar and Steamboat Springs areas to attainment for PM_{10}.

B. Do the Lamar and Steamboat Springs Redesignation Requests and Maintenance Plans Meet the CAA Requirements?

i. Attainment of the PM_{10} NAAQS

A state must demonstrate that an area has attained the PM_{10} NAAQS through submittal of ambient air quality data from an ambient air monitoring network representing maximum PM_{10} concentrations. The data, which must be quality assured and recorded in the Aerometric Information Retrieval System (AIRS), must show that the average annual number of expected exceedances for the area is less than or equal to 1.0, pursuant to 40 CFR 50.6. In making this showing, the three most recent years of complete air quality data must be used.

Colorado operates two PM_{10} monitoring sites in the Lamar PM_{10} nonattainment area. Colorado submitted ambient air quality data from the monitoring site which demonstrate that the area has attained the PM_{10} NAAQS. These air quality data were quality-assured and placed in AIRS. There were three exceedances of the 24-hour PM_{10} NAAQS recorded in the Lamar area between 1996 and 2000 due to high winds. Lamar has a Natural Events Action Plan (NEAP) that was approved by EPA on June 5, 1998 that addresses high wind events. The three exceedances between 1996 and 2000 were flagged in the AIRS database and were not included in the attainment demonstration because of Lamar's approved NEAP (see section III.B.iii. for additional information regarding Lamar's NEAP). EPA approved the flagging of the three exceedances in a letter to the State on July 3, 2001. The annual PM_{10} NAAQS has never been exceeded in Lamar. The three most recent years of data for the area (2000—2002) are complete (*i.e.*, data are available for at least 75% of the scheduled PM_{10} samples per quarter) with no recorded violations. We believe that Colorado has adequately demonstrated, through ambient air quality data, that the PM_{10} NAAQS have been attained in the Lamar area.

Colorado also operates two PM_{10} monitoring sites in the Steamboat Springs PM_{10} nonattainment area. Colorado submitted ambient air quality data from both monitoring sites which demonstrate that the area has attained the PM_{10} NAAQS. These air quality data were quality assured and placed in AIRS. Two exceedances of the 24-hour PM_{10} NAAQS were measured in 1993 and 1996. However, the 3-year average of estimated exceedances remained below 1.0 (per year) (40 CFR 50.6) and therefore did not result in a violation of the 24-hour PM_{10} NAAQS. The three most recent years of data for the area (2000–2002) are complete (*i.e.*, data are available for at least 75% of the scheduled PM_{10} samples per quarter) with no recorded violations. The annual PM_{10} NAAQS has never been exceeded in Steamboat Springs. We believe that Colorado has adequately demonstrated, through ambient air quality data, that the PM_{10} NAAQS have been attained in the Steamboat Springs area.

ii. State Implementation Plan Approval

Those States containing initial moderate PM_{10} nonattainment areas were required by the 1990 amendments to the CAA to submit a SIP by November 15, 1991 which demonstrated attainment of the PM_{10} NAAQS by December 31, 1994. To approve a redesignation request, the SIP for the area must be fully approved under section 110(k) and must satisfy all requirements that apply to that area. The Lamar area was among the initial moderate PM_{10} nonattainment areas. EPA fully approved the PM_{10} SIP for Lamar on June 9, 1994 (59 FR 29732). The Steamboat Springs area was designated nonattainment for PM_{10} on December 21, 1993 (58 FR 67334). EPA fully approved the PM_{10} SIP for Steamboat Springs on December 31, 1997 (62 FR 68188). These PM_{10} SIPs for Lamar and Steamboat Springs were approved as meeting the moderate PM_{10} nonattainment plan requirements.

iii. Improvement in Air Quality Due to Permanent and Enforceable Measures

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 emission reductions which are permanent and enforceable. The Lamar PM_{10} nonattainment area is a unique case in which no area-specific PM_{10} control measures were needed to bring the area into attainment (or to ensure continued attainment). The primary source of PM_{10} emissions in Lamar is blowing fugitive dust resulting from high wind events. Colorado's July 31, 2002 submittal did cite several State-wide regulations as being responsible for the improvement in air quality in Lamar as well as control measures implemented under the Lamar Natural Events Action Plan (NEAP) addressing PM_{10} emissions as a result of blowing fugitive dust. EPA's Natural Events Policy (NEP) and the local measures Lamar implemented under the area's NEAP are discussed in more detail below. The State-wide regulations cited are the following: ''Emission Control Regulation for Particulates, Smoke, Carbon Monoxide and Sulfur Oxides'' (Regulation No. 1), ''Air Pollution Emission Notices, Construction Permits and Fees, Operating Permits and Including the Prevention of Significant Deterioration'' (Regulation No. 3), ''New Woodstoves and Woodburning Appliance Use During High Pollution Days'' (Regulation No. 4), ''Standards of Performance for New Stationary Sources'' (Regulation No. 6), and the ''Common Provisions Regulation.''

Recognizing that certain uncontrollable natural events, such as high winds, and wildfires, can have on the NAAQS, the EPA issued a Natural Events Policy (NEP) on May 30, 1996. The NEP sets forth procedures through the development of a Natural Events Action Plan (NEAP) for protecting public health in areas where the PM_{10} standard may be violated due to these uncontrollable natural events. One of the requirements of the NEP is that Best Available Control Measures (BACM) must be implemented at contributing anthropogenic sources of dust in order for PM_{10} exceedances to be treated as due to uncontrollable natural events. BACM for PM_{10} are defined by EPA as techniques that achieve the maximum degree of emission reduction from a source as determined on a case-by-case basis considering technological and economic feasibility (59 FR 41998). An additional requirement of the NEP is that in order for an area to request redesignation of a nonattainment to attainment, the area must demonstrate that the area would be meeting the NAAQS but for the emissions caused by natural events.[1]

Over the past eight years, the monitors located at the Municipal Power Plant and Municipal Building in Lamar, Colorado experienced exceedances of the 24-hour NAAQS for PM_{10}. Each of these exceedances was associated with unusually high winds and blowing dust in the Lamar area. In response to Lamar's exceedances of the PM_{10} NAAQS, the Colorado Department of Public Health and Environment's Air Pollution Control Division, in conjunction with the City of Lamar's Public Works Department, Parks and Recreation, and Prowers County Commissioners, the Natural Resources Conservation Services, the Burlington Northern Santa Fe Railroad, and other agencies developed a NEAP. The NEAP was presented to EPA in 1998. EPA subsequently approved the NEAP for

[1] This policy applies to emissions caused by natural events that have occurred since January 1, 1994.

Lamar as meeting all the requirements of the 1996 NEP. Since 1998, it is this plan that has assisted the area in addressing blowing dust due to uncontrollable winds. In the Lamar area the BACM that were implemented as part of the 1998 NEAP to address high wind events include wind breaks, controls at the East Lamar Landfill, vegetative cover at Escondido Park, soil stabilization along rail lines, installation of perennial grass over croplands, and the implementation of soil erosion conservation practices. In addition, the 1996 NEP requires that the State provide a five-year review of the NEAP, which was submitted to EPA in 2003 and subsequently approved. The five-year review of the NEAP for Lamar includes commitments for additional BACM control measures, including irrigation of tree groves established for wind breaks, additional litter control at the East Lamar Landfill, stabilization of the entrance road to Escondido Park, and the purchase and use of a regenerative air street sweeper. In addition to the BACM control measures, public education and notification procedures have been implemented as part of the NEAP for Lamar. Based on our approval of the 1998 Lamar NEAP and our subsequent approval of the 2003 Lamar NEAP's five-year review, EPA has concluded that, but for the emissions caused by natural events, the Lamar area has demonstrated attainment of the PM_{10} NAAQS.

In addition to the local and State control measures discussed above, the Federal Motor Vehicle Emission Control Program has helped reduce PM_{10} emissions in Lamar as older, higher emitting diesel vehicles are replaced with newer vehicles that meet tighter emission standards. Overall, despite growth in the Lamar nonattainment area (*e.g.*, in population and vehicle miles traveled), attainment of the PM_{10} NAAQS has been demonstrated. We have evaluated the various control measures, in addition to the 2000 attainment year emission inventory and the projected emissions described below, and have concluded that the continued attainment of the PM_{10} NAAQS in the Lamar area has resulted from emission reductions that are permanent and enforceable.

The primary sources of PM_{10} emissions in the Steamboat Springs area are re-entrained road dust (from highways, paved roads, chip sealed roads, and unpaved roads) and woodburning. The permanent and enforceable control measures that brought the Steamboat Springs PM_{10} nonattainment area into attainment and were approved by EPA into Colorado's SIP in 1997 are described in detail below.

The City of Steamboat Springs and Routt County adopted local ordinance and resolutions that limit the number and types of woodburning devices in new construction in the Steamboat Springs area. Installation of new solid fuel burning devices is limited to one approved device for any building. The Steamboat Springs area adopted these measures in the late 1980s and early 1990s and the measures were included in State regulation in 1993 (Section VIII.E. of the ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Areas)''). The rule was approved by EPA on December 31, 1997 (62 FR 68188).

The Steamboat Springs area adopted two street sanding control strategies for the nonattainment area. The first street sanding control strategy requires that any user that applies street sanding materials in the Steamboat Springs area must use materials containing less than two percent fines, except on U.S. Highway 40 from the junction of U.S. Highway 131 towards Rabbit Ears Pass. This strategy was included in State regulations in 1996 (Section VIII.B. of the ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Areas)). The second street sanding control strategy requires that the Colorado Department of Transportation (CDOT) reduce the amount of sand applied on U.S. Highways 40 and 131 in the Steamboat Springs area by 10 percent. This strategy was included in State regulation in 1996 (Section VIII.C. of the ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Areas)). Both the street sanding controls were approved by EPA on December 31, 1997 (62 FR 68188).

In addition, the Steamboat Springs area adopted street sweeping requirements for a defined section of Lincoln Avenue (Highway 40 in town). Street cleaning using vacuum sweepers or any other sweepers with equal efficiency must be performed four times within four days of the roadways becoming free and clear of snow and ice following each sanding deployment use. This strategy was included in State regulations in 1996 (Section VIII.D. of the ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Areas)). The rule was approved by EPA on December 31, 1997 (62 FR 68188).

In addition to the local control measures that have been adopted in the Steamboat Springs area, Colorado's July 31, 2002 submittal did cite several Statewide regulations that limit emissions from any new source that may locate in the Steamboat Springs area. These rules are: ''Air Pollution Emission Notices, Construction Permits and Fees, Operating Permits and Including the Prevention of Significant Deterioration'' (Regulation No. 3), ''Standards of Performance for New Stationary Sources'' (Regulation No. 6), and the ''Common Provisions Regulation.''

In addition to these State and Local control measures, the Federal Motor Vehicle Emission Control Program has helped reduce PM_{10} emissions in Steamboat Springs as older, higher emitting diesel vehicles are replaced with newer vehicles that meet tighter emission standards. Overall, despite growth in the Steamboat Springs nonattainment area (*e.g.*, in population and vehicle miles traveled), attainment of the PM_{10} NAAQS has been demonstrated. We have evaluated the various control measures, in addition to the 1999 attainment year emission inventory and the projected emissions described below, and have concluded that the continued attainment of the PM_{10} NAAQS in the Steamboat Springs area has resulted from emission reductions that are permanent and enforceable.

iv. Fully Approved Maintenance Plan Under Section 175A of the CAA

Section 107(d)(3)(E) of the CAA requires that, for a nonattainment area to be redesignated to attainment, we must fully approve a maintenance plan which meets the requirements of section 175A of the CAA. The plan must demonstrate continued attainment of the relevant NAAQS in the area for at least 10 years after our approval of the redesignation. Eight years after our approval of a redesignation, Colorado must submit a revised maintenance plan demonstrating attainment for the 10 years following the initial 10 year period. The maintenance plan must also contain a contingency plan to ensure prompt correction of any violation of the NAAQS. (See sections 175A(b) and (d).) Our September 4, 1992 guidance outlines five core elements that are necessary to ensure maintenance of the relevant NAAQS in an area seeking redesignation from nonattainment to attainment. Those elements, as well as guidelines for subsequent maintenance plan revisions, are as follows:

a. Attainment Inventory

The maintenance plan should include an attainment emission inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS. An emission inventory for Lamar was developed for the attainment year 2000 as well as the projection inventory for the year 2015. The emission inventory incorporates emission estimates for woodburning (fireplaces and wood stoves), restaurant and mobile exhaust emissions, highway, arterial and local re-entrained road dust emissions, and gravel road emissions. Summary emission figures from the 2000 attainment year inventory and the 2015 projected inventory for the Lamar area are provided in Tables 1, 2, and 3 below.

TABLE 1.—2000 AND 2015 PM_{10} TOTAL EMISSION INVENTORY FOR ROAD DUST ACTIVITY IN POUNDS PER DAY FOR LAMAR CITY

	Highway	Paved roads		Unpaved roads
		Arterial	Local	
2000	2530	866	3195	24
2015	2792	993	3665	28

* Highway re-entrained road dust emissions for the year 2000 were developed using the latest traffic counts from Colorado Deparment of Transportation (CDOT) as well as revised emissions factors that incorporate the latest EPA methods for determining paved road emission and measured silt loadings from the area.

** Arterial and local street re-entrained emissions for 2000 were determined using VMT information contained in the 1993 SIP element (grown to 2000 by appropriate growth rates) as well as the latest EPA methods for determining paved road emissions and measured silt loadings form the area.

*** Gravel road emissions were developed using VMT information contained in the 1993 SIP element (grown to 2000 by appropriate growth rates) as well as EPA methods for determining gravel road emissions.

TABLE 2.—2000 AND 2015 PM_{10} TOTAL EMISSION INVENTORY FOR VEHICLE EXHAUST, FIREPLACES, WOODSTOVES AND POINT SOURCES IN POUNDS PER DAY FOR LAMAR CITY

	Vehicle exhaust	Fireplace	Woodstoves	Point sources
2000	56	208	269	1271
2015	56	228	294	1281

* The woodburning emission estimates and mobile exhaust emissions for the year 1997 were taken from the 1993 SIP element that was approved by EPA on June 9, 1994 (59 FR 29732) and rolled forward to 2000. VMT was also adjusted using actual CDOT traffic counts.

TABLE 3.—2000 AND 2015 PM_{10} TOTAL EMISSION INVENTORY FOR TILLING, WIND EROSION/FEEDLOT, GRAIN ELEVATORS, AND STORAGE PILES IN POUNDS PER DAY FOR LAMAR CITY

	Tilling	Wind erosion/ feedlot	Grain elevators	Storage piles
2000	28	4231	2	22
2015	28	4231	2	22

* The tilling, wind erosion, and the area's feedlot emissions were rolled forward from 2000 inventory levels as well as the storage piles emission inventory. The 2000 emissions are the same as the 1997 emissions documented in the 1994 Lamar SIP.

More detailed descriptions of the 2000 attainment year inventory and the 2015 projected inventory for the Lamar area are documented in the maintenance plan in Chapter 3, section B and in the Colorado technical support documentation. Colorado's submittal contains detailed emission inventory information that was prepared in accordance with EPA emission inventory guidance.[2] Following our review, we have determined that Colorado prepared an adequate attainment inventory for the Lamar area.

An emission inventory for Steamboat Springs was developed for the attainment year 1999 as well as the projection inventory for the 2005 and 2010 interim years and the 2015 maintenance year. The emission inventory incorporates the emission estimates for aircrafts, restaurants, stationary sources, woodburning, mobile exhaust, and re-entrained road dust emissions from paved and unpaved roads that are contained in the nonattainment area SIP element that was approved by EPA on December 31, 1997 (62 FR 68188). Aircraft emissions were determined by using EPA and Colorado's Air Pollution Control Division (APCD) developed emission factors and activity data provided by the City of Steamboat Springs. Restaurant emissions were developed using emission factors and survey data of activity in the Steamboat Springs area. Woodburning emissions were determined by using EPA and APCD developed emission factors and survey data of woodburning activity and practices in the Steamboat Springs area. Re-entrained dust from paved and unpaved roads were developed using APCD and CDOT vehicle miles traveled data and emission factors that were calculated using the EPA-approved formula, local silt loading data, and the application of credits from street sweeping and street sand reduction control measures. Mobil exhaust was determined using EPA's PART5 model. Stationary source emission in the Steamboat Springs area were

[2] EPA's current guidance on the preparation of PM_{10} emission inventories includes, ''PM_{10} Emission Inventory Requirements,'' September 1994, ''Emission Inventory Improvement Program Technical Report Series, Volumes I–VII,'' July 1997 and September 1999, ''Revised 1999 National Emission Inventory Preparation Plan,'' February 2001.

determined by calculating allowable emissions from three facilities in the area in existence in the mid-1990s. The Craig and Hayden power plants were modeled at allowable emissions for all years however these emissions were not included in the emission inventories because they are not located within the Steamboat Springs nonattainment—attainment/maintenance area and modeling domain. Summary emission figures from the 1999 attainment year inventory, the 2005 and 2010 interim years, and the 2015 projected inventory for the Steamboat Springs area are provided in Table 1 below.

TABLE 1.—1999, 2005, 2010 AND 2015 PM_{10} TOTAL EMISSION INVENTORY IN POUNDS PER DAY FOR STEAMBOAT SPRINGS

	PM_{10} emissions (lbs./day)			
	1999	2005	2010	2015
Aircraft	24	27	30	34
Restaurant Grills	99	114	127	143
Vehicle Exhaust	53	52	56	63
Paved Roads	9122	10059	11271	12630
Unpaved Roads	7519	7233	8104	9080
Stationary Sources	584	242	271	304
Woodburning	1057	1216	1353	1522

More detailed descriptions of the 1999 attainment year inventory, the 2005 and 2010 interim years, and the 2015 projected inventory for the Steamboat Springs area are documented in the maintenance plan in Chapter 3, section B and in the Colorado technical support documentation. Colorado's submittal contains detailed emission inventory information that was prepared in accordance with EPA emission inventory guidance.[3] Following our review, we have determined that Colorado prepared an adequate attainment inventory for the Steamboat Springs area.

b. Maintenance Demonstration

A state may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS. Colorado chose the chemical mass balance (CMB) modeling approach for the Lamar area and the dispersion modeling approach for the Steamboat Springs area.

The maintenance demonstration for the Lamar area uses the CMB roll-forward methodology, which is the same level of modeling used in the original attainment demonstration for the moderate PM_{10} SIP for this area. The CMB receptor model data are used to identify the sources of emissions that influence PM_{10} concentrations in the area. Colorado used the attainment inventory to further refine the CMB source identification and then apportion the design day concentration. The design day concentration was determined using EPA's ''Table look-up'' method. Based on the number of samples collected during a three year period from 1998—2000 (2026 samples total), the third highest concentration measured during that period is used as the design value. For the Lamar area, the design value is 137 $\mu g/m^3$. Colorado prepared a maintenance inventory for the year 2015 and rolled forward the design day concentration based on the changes that occurred in the emission inventory from the attainment year to the maintenance year. Based on this process, the Lamar 2015 maintenance concentration is 145.4 $\mu g/m^3$. Since this 2015 projection for Lamar is below the 24-hour PM_{10} NAAQS of 150 $\mu g/m^3$, maintenance is demonstrated.

Although EPA would normally insist on some interim year projections between the attainment year and 2015, we have no reason to believe that total emissions for the Lamar area will be greater than the 2015 projections in any of the interim years. Colorado applied simple, environmentally conservative, growth rates to all source categories. Thus, total emissions in all years before 2015 in the Lamar area should be less than 2015 total emissions and no interim year projections are required.

Since no violation of the PM_{10} annual NAAQS have ever occurred in the Lamar area and since the maintenance demonstration clearly shows maintenance of the 24-hour PM_{10} NAAQS in this area through the year 2015, it is reasonable and adequate to assume that protection of the 24-hour standard will be sufficient to protect the annual standard as well. Thus, EPA believes Colorado has adequately demonstrated that the Lamar area will maintain the PM_{10} NAAQS for at least the next ten years. Detailed information regarding the CMB modeling results and source apportionment can be found in Chapter 3, section C of the Lamar maintenance plan and in the technical support document.

The maintenance demonstration for the Steamboat Springs area relied on the dispersion modeling methodology, which is the same level of modeling used in the original attainment demonstration for the moderate PM_{10} SIP for this area. Maintenance is demonstrated when the highest modeled values at each receptor on the modeling grid are below the 150 $\mu g/m^3$. The emission inventories for 2005, 2010, and 2015 were input into the dispersion model to obtain 2005, 2010, and 2015 projected PM_{10} concentrations. The dispersion modeling for the Steamboat Springs PM_{10} maintenance area demonstrates that in 2005 the highest concentration is 121 $\mu g/m^3$, in 2010 the highest concentration is 132 $\mu g/m^3$, and in 2015 the highest concentration is 146 $\mu g/m^3$ for the 24-hour PM_{10} NAAQS.

Since no exceedances of the PM_{10} annual NAAQS have ever occurred in the Steamboat Springs area and since the maintenance demonstration clearly shows maintenance of the 24-hour PM_{10} NAAQS in this area through the year 2015, it is reasonable and adequate to assume that protection of the 24-hour standard will be sufficient to protect the annual standard as well. Thus, EPA believes Colorado has adequately demonstrated that the Steamboat

[3] EPA's current guidance on the preparation of PM_{10} emission inventories includes, ''PM_{10} Emission Inventory Requirements,'' September 1994, ''Emission Inventory Improvement Program Technical Report Series, Volumes I–VII,'' July 1997 and September 1999, ''Revised 1999 National Emission Inventory Preparation Plan,'' February 2001.

Springs area will maintain the PM_{10} NAAQS for at least the next ten years. Detailed information regarding the dispersion modeling results and source apportionment can be found in Chapter 3, section C of the Steamboat Springs maintenance plan and in the technical support document.

c. Monitoring Network

Once a nonattainment area has been redesignated to attainment, the State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. Colorado operates two PM_{10} monitoring sites in the Lamar area and two in the Steamboat Springs area. We approve these sites annually, and any future change would require discussion with, and approval from, us. In their July 31, 2002 submittal, Colorado committed to continue to operate these PM_{10} monitoring stations in Lamar and Steamboat Springs, in accordance with 40 CFR part 58.

d. Verification of Continued Attainment

A state's maintenance plan submittal should indicate how it will track the progress of the maintenance plan. This is necessary due to the fact that the emission projections made for the maintenance demonstration depend on assumptions of point and area source growth. Colorado commits to operating both the Lamar and Steamboat Springs PM_{10} monitoring network and analyze the PM_{10} concentrations in accordance with 40 CFR part 58 to verify continued maintenance of the PM_{10} NAAQS. In addition, Colorado commits to track the progress of both the Lamar and Steamboat Springs maintenance plans through a periodic review (every three years) of the assumptions made in the emissions inventories to verify continued maintenance of the PE_{10} NAAQS in both areas. EPA relies on these commitments in approving the Lamar and Steamboat Springs maintenance plans.

e. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan also include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. For the purposes of section 175A, a state is not required to have fully adopted contingency measures that will take effect without further action by the State in order for the maintenance plan to be approved. However, the contingency plan is an enforceable part of the SIP and should ensure that contingency measures are adopted expeditiously when a violation of the NAAQS has occurred in a redesignated area. The plan should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State. The State should also identify the specific indicators, or triggers, which will be used to determine when the contingency plan will be implemented.

Chapter 3, section H, of both the Lamar and Steamboat Springs maintenance plan contains the area's PM_{10} contingency plan. Exceedances trigger one level of response and violations trigger another. If there's an exceedance, the Air Pollution Control Division (APCD) and the local government staff will develop appropriate contingency measures intended to prevent or correct a violation of the PM_{10} standard for the PM_{10} maintenance area. APCD and local government staff will consider relevant information, including information about historical exceedances, meteorological data, the most recent estimates of growth and emissions, and whether the exceedance might be attributed to an exceptional event. The Lamar and Steamboat Springs maintenance plans indicate that the State will generally notify EPA and local governments in the PM_{10} maintenance area within 30 days of the exceedance, but no later than 45 days. The process for exceedances will be completed within six months of the exceedance notification.

If a violation of the PM_{10} NAAQS has occurred, a public hearing process at the State and local level will begin. If the Colorado Air Quality Control Commission (AQCC) agrees that the implementation of local measures will prevent further exceedances or violations, the AQCC may endorse or approve of the local measures without adopting State requirements. If, however, the AQCC finds locally adopted contingency measures to be inadequate, the AQCC will adopt State enforceable measures as deemed necessary to prevent additional exceedances or violations. Contingency measures will be adopted and fully implemented within one year of the PM_{10} NAAQS violation. Any State-enforceable measures will become part of the next revised maintenance plan, submitted to us for approval.

The Lamar PM_{10} maintenance plan specifies the following as potential contingency measures for the Lamar area: street sweeping requirements; road paving requirements; street sand specifications; woodburning restrictions; use of alternative de-icers; re-establishing nonattainment new source review permitting requirements for stationary sources; [4] controls at existing stationary sources; transportation control measures designed to reduce vehicle miles traveled; or other emission control measures as deemed appropriate, considering various factors.

The Steamboat Springs PM_{10} maintenance plan specifies the following as potential contingency measures for the Steamboat Springs area: reinstating the 10 percent street sand reduction requirement for State highways; increasing the Lincoln Avenue street sweeping frequency from two to four times after each sanding event; increased street sweeping requirements; road paving requirements; more stringent street sand specifications; voluntary or mandatory woodburning curtailment; bans on all woodburning; expanded, mandatory use of alternative de-icers; re-establishing nonattainment new source review permitting requirements for stationary sources; [3] transportation control measures designed to reduce vehicle miles traveled; or other emission control measures as deemed appropriate, considering various factors.

f. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State of Colorado is required to submit a revision to the maintenance plan eight years after the redesignation of the Lamar and Steamboat Springs areas to attainment for PM_{10}. This revision is to provide for maintenance of the NAAQS for an additional ten years following the first ten year period. Colorado committed, in the Lamar and Steamboat Springs redesignation requests, to submit a revised maintenance plan, for each area, to EPA eight years after the approval of the redesignation request and maintenance plan.

v. Meeting Applicable Requirements of Section 110 and Part D of the CAA

In order for an area to be redesignated to attainment, section 107(d)(3)(E) requires that it must have met all applicable requirements of section 110 and part D of the CAA. We interpret this

[4] The maintenance plan refers to ''Re-establishing new source review permitting requirement for stationary sources.'' Given that PSD permitting requirements will apply to the area after the effective date of this action, we interpret the maintenance plan's reference to mean ''nonattainment new source review.''

to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to, or at the time of, submitting 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.

a. Section 110 Requirements

Section 110(a)(2) contains general requirements for nonattainment plans. These requirements were met for Lamar with Colorado's May 7, 1993 submittal for the Lamar PM_{10} nonattainment area. EPA fully approved the Lamar PM_{10} SIP on June 9, 1994 (59 FR 29732). The section 110(a)(2) requirements were met for Steamboat Springs with Colorado's September 16, 1997 submittal for the Steamboat Springs PM_{10} nonattainment area. EPA fully approved the Steamboat Springs PM_{10} SIP on December 31, 1997 (62 FR 68188).

b. Part D Requirements

Before a PM_{10} nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Subpart 1 of part D establishes the general requirements applicable to all nonattainment areas, subpart 4 of part D establishes specific requirements applicable to PM_{10} nonattainment areas.

The requirements of sections 172(c) and 189(a) regarding attainment of the PM_{10} NAAQS, and the requirements of section 172(c) regarding reasonable further progress, imposition of Reasonably Available Control Measures (RACM), the adoption of contingency measures, and the submission of an emission inventory, have been satisfied through our June 9, 1994 (59 FR 29732) approval of the Lamar PM_{10} SIP and our December 31, 1997 (62 FR 68188) approval of the Steamboat Springs PM_{10} SIP.

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.)

We approved the requirements of the part D new source review (NSR) permit program for the Lamar moderate PM_{10} nonattainment area on August 18, 1994 (59 FR 42500) and for the Steamboat Springs moderate PM_{10} nonattainment area on December 31, 1997 (62 FR 68188). Colorado's nonattainment area NSR permitting regulations were fully approved on September 19, 1994 (59 FR 47807). Once the Lamar and Steamboat Springs areas are redesignated to attainment, the prevention of significant deterioration (PSD) requirements of part C of the CAA will apply. Colorado's PSD regulations, which we approved as meeting all applicable Federal requirements, apply to any area designated as unclassifiable or attainment and, thus, will become fully effective in the Lamar and Steamboat Springs area upon redesignation of the area to attainment.

C. Have the Transportation Conformity Requirements Been Met?

Transportation conformity is required by section 176(c) of the CAA. Our conformity rule requires that transportation plans, programs and projects conform to SIPs and that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision in *Environmental Defense Fund* v. *the Environmental Protection Agency,* No. 97–1637, that we must make an affirmative determination that the submitted motor vehicle emission budgets contained in State Implementation Plans (SIPs) are adequate before they are used to determine the conformity of Transportation Plans or Transportation Improvement Programs. In response to the court decision, we make any submitted SIP revision containing an emission budget available for public comment and respond to these comments before announcing our adequacy determination. The criteria and process by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4) and in the guidance ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision,'' dated May 14, 1999.

In the Lamar maintenance plan, Colorado established a new mobile source emissions budget of 7,534 lbs./day for the year 2015 and beyond. In the Steamboat Springs maintenance plan, Colorado established a new mobile source emissions budget of 21,773 lbs./day for the year 2015 and beyond. The new mobile source emissions budgets for both Lamar and Steamboat Springs are the total of the 2015 mobile source PM_{10} emissions for each area and includes emissions from vehicle exhaust, highways, paved arterial and local roads, and gravel roads. EPA's approval of 7,534 lbs./day for Lamar and 21,773 lbs./day for Steamboat Springs as the budget for those areas means that these values must be used for conformity determinations for 2015 and beyond.

EPA sent a letter to the Colorado Air Pollution Control Division (APCD) on September 25, 2002 stating that the motor vehicle emission budgets that were submitted with the Lamar and Steamboat Springs PM_{10} maintenance plan is adequate. This finding has also been announced on EPA's conformity Web site: *http://www.epa.gov/otaq/transp/conform/adequacy.htm.* We documented our adequacy determination for Lamar and Steamboat Springs in the **Federal Register** on October 28, 2002 (67 FR 65789). The budgets took effect on November 12, 2002 (15 days after our announcement in the **Federal Register**).

D. Did Colorado Follow the Proper Procedures for Adopting This Action?

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing.

Colorado held a public hearing for the proposed rule changes on November 15, 2001. The rulemaking was adopted by the Air Quality Control Commission (AQCC) directly after the November 15, 2001 hearing and was formally submitted to EPA by the Governor on July 31, 2002. We have evaluated the Governor's submittal and have determined that Colorado met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA.

IV. Background

To implement our 1987 revisions to the particulate matter NAAQS, on August 7, 1987 (52 FR 29383), we categorized areas of the nation into three groups based on the likelihood that protection of the PM_{10} NAAQS would require revisions of the existing SIP. We

identified Lamar as PM_{10} ''Group I'' area of concern, *i.e.*, areas with a strong likelihood of violating the PM_{10} NAAQS and requiring a substantial SIP revision and the Steamboat Springs area as a ''Group II'' area of concern, *i.e.*, areas where attainment of the NAAQS is uncertain and the SIP may require only slight adjustment.

The Lamar area was among several Group I PM_{10} areas, all of which were designated and classified as moderate PM_{10} nonattainment areas by operation of law upon enactment of the Clean Air Act Amendments of 1990 (November 15, 1990). See 56 FR 56694 at 56705–56706 (November 6, 1991). By November 15, 1991, States containing initial moderate PM_{10} nonattainment areas were required to submit most elements of their PM_{10} SIPs. (See sections 172(c), 188, and 189 of the CAA.) Some provisions, such as PM_{10} contingency measures required by section 172(c)(9) of the CAA and nonattainment new source review (NSR) provisions, were due at later dates. In order for a nonattainment area to be redesignated to attainment, the above mentioned conditions in section 107(d)(3)(E) of the CAA must be met. EPA fully approved the PM_{10} SIP for Lamar on June 9, 1994 (59 FR 29732).

Pursuant to sections 107(d)(4)(B) and 188(a) of the Act, areas previously identified as Group I (55 FR 45799, October 31, 1990) and other areas which had monitored violations of the PM_{10} NAAQS prior to January 1, 1989 were, by operation of law upon enactment of the 1990 Clean Air Act Amendments (Public Law 101–549, 104 Stat. 2399), designated nonattainment and classified as moderate for PM_{10}. Formal codification in 40 CFR part 81 of those areas was announced in a **Federal Register** notice dated November 6, 1991 (56 FR 56694) (see also 57 FR 56762, November 30, 1992). All other areas of the country were designated unclassifiable for PM_{10} by operation of law upon enactment of the 1990 Amendments (see section 107(d)(4)(B)(iii) of the Act). EPA redesignated and classified the Steamboat Springs area as a PM_{10} moderate nonattainment area on December 21, 1993 (58 FR 67334) and fully approved the PM_{10} SIP for Steamboat Springs on December 31, 1997 (62 FR 68188).

EPA promulgated new standards for PM_{10} on September 18, 1997. Areas were to be designated under the new PM_{10} standard by July 2000. On May 14, 1999, the United States Court of Appeals for the D.C. Circuit in *American Trucking Associations, Inc. et al.*, v. *United States Environmental Protection Agency* vacated the 1997 PM_{10} standard. Because of the Court ruling, we are continuing to implement the pre-existing PM_{10} standard, and are therefore approving redesignations to qualified PM_{10} nonattainment areas. On July 31, 2002 the Governor of Colorado submitted a request to redesignate the Lamar and Steamboat Springs moderate PM_{10} nonattainment areas to attainment (for the 1987 PM_{10} NAAQS) and submitted maintenance plans for the areas.

V. Consideration of CAA Section 110(l)

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 Lamar and Steamboat Springs area has shown continuous attainment of the PM_{10} NAAQS and has met the applicable Federal requirements for redesignation to attainment. The maintenance plan and associated SIP revisions will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

VI. Statutory and Executive Order Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the 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 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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 is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 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 October 4, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control.

Dated: June 28, 2004.

Robert E. Roberts,

Regional Administrator, Region 8.

■ 40 CFR parts 52 and 81, chapter I, title 40 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)(101) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(101) On July 31, 2002, the State of Colorado submitted maintenance plans for the Lamar and Steamboat Springs PM_{10} nonattainment areas and requested that these areas be redesignated to attainment for the PM_{10} National Ambient Air Quality Standards. The redesignation requests and maintenance plans satisfy all applicable requirements of the Clean Air Act.

(i) Incorporation by Reference

(A) Colorado Air Quality Control Commission, ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Elements),'' 5 CCR 1001–20, revisions adopted November 15, 2001, effective December 30, 2001 as follows: Section IV, which is titled ''Lamar Attainment/Maintenance Area,'' and Section VIII., which is titled ''Steamboat Springs PM_{10} Attainment/Maintenance Area'' and which supersedes and replaces all prior versions of Section IV and VIII.

(ii) Additional Material

(A) Colorado Department of Public Health and Environment, ''Natural Events Action Plan for High Wind Events, Lamar, Colorado,'' submitted to EPA on February 9, 1998 and subsequently approved by EPA, June 5, 1998 and Lamar's revised 2003 ''Natural Events Action Plan for High Wind Events, Lamar, Colorado,'' submitted to EPA on April 16, 2003 and subsequently approved by EPA, February 9, 2004.

■ 3. Section 52.332 is amended by adding paragraph (n) to read as follows:

§ 52.332 Control strategy: Particulate matter.

* * * * *

(n) On July 31, 2002, the State of Colorado submitted maintenance plans for the Lamar and Steamboat Springs PM_{10} nonattainment areas and requested that these areas be redesignated to attainment for the PM_{10} National Ambient Air Quality Standards. The redesignation requests and maintenance plans satisfy all applicable requirements of the Clean Air Act.

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-PM–10'' is amended by revising the entries under Prowers County for ''Lamar'' and under Routt County (part) for ''Steamboat Springs'' to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—PM–10

Designated Area	Designation		Classification	
	Date	Type	Date	Type
* *	*	* *	*	*
Prowers County: Lamar	October 4, 2004	Attainment		
* *	*	* *	*	*
Routt County (part)—Steamboat Springs: On the East—The Routt National Forest. On the South—The southern border of sections 19, 10, 21, T4N, R84W of the 6th P.M. and the southern border of sections 23, 24, T4N, R85W of the 6th P.M. On the West—Beginning at the southwestern corner of section 23, T4N, R85W of the 6th P.M.	October 4, 2004	Attainment		

COLORADO—PM–10—Continued

Designated Area	Designation		Classification	
	Date	Type	Date	Type
North along the western border of sections 23, 14, 11, T4N, R85W. Thence, along the ridge which bisects sections 35, 36, 25, 24, 13, 14, 11, 12, 1, T5N, R85W, and sections 36, 25, 24, T6N, R85W. Thence heading northwest along the ridge which bisects sections 23, 15, 10, 9, 4, T6N, R85W of 6th P.M. Thence, heading northeast along the ridge which bisects sections 33, 34, 35, 36, 25, T7N, R85W and sections 30 and 10 of T7N, R84W. Thence, north along the N ½ of the western edge of section 19, to the NW corner of section 18, T7N, R84W. On the North—The northern boundary of sections 16, 17, 18, T7N, R84W of 6th P.M.				
* * * * * * *				

* * * * *

[FR Doc. 04–17656 Filed 8–4–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7797–5]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion for the Hooker (102nd Street) Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region II Office announces the deletion of the Hooker (102nd Street) Superfund Site from the National Priorities List (NPL). The Hooker (102nd Street) Site is located in the City of Niagara Falls, Niagara County, New York. The NPL is Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. The EPA and New York State, through the Department of Environmental Conservation (NYSDEC) have determined that all appropriate response actions have been implemented and that no further response actions, other than operation, maintenance, and monitoring, are required. In addition, the EPA and the NYSDEC have determined that the remedial action taken at the Hooker (102nd Street) Site is protective of public health, welfare, and the environment.

EFFECTIVE DATE: August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Paul J. Olivo, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th Floor, New York, New York 10007–1866, (212) 637–4280.

SUPPLEMENTARY INFORMATION: To be deleted from the NPL is the Hooker (102nd Street) Superfund Site, City of Niagara Falls, Niagara County, New York.

A Notice of Intent-to-Delete for the Hooker (102nd Street) Site was published in the **Federal Register** on March 17, 2004 (69 FR 12604). The closing date for comments on the Notice of Intent-to-Delete was April 16, 2004. The EPA received no comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment, and the EPA maintains the NPL as the list of those sites. As described in Sec. 300.425(e)(3) of the NCP, any site or portion thereof deleted from the NPL remains eligible for remedial actions in the unlikely event that conditions at the site warrant such action in the future. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution controls, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 6, 2004.

Walter Mugdan,

Acting Regional Administrator—Region II.

■ For the reasons set out in the preamble, part 300, chapter I of title 40 of the Code of Federal Regulations, is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9675; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR., 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to Part 300 is amended by removing ''Hooker (102nd Street), Niagara Falls, New York.''

[FR Doc. 04–17788 Filed 8–4–04; 8:45 am]

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