

District Rules 1201–1205, 1209–1211, 1214, 1217, 1220–1221, and 1223–1224.

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(65) The following amendments to the South Coast Air Basin Control Plan were submitted on July 25, 1979, by the Governor's designee.

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(iii) Previously approved on September 28, 1981 and now deleted without replacement for implementation in the Antelope Valley Air Pollution Control District Rules 1206, 1208, 1212, 1213, 1215, 1216, 1218, 1219, 1222, and 1225–1230.

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(D) Previously approved on February 1, 1984 and now deleted without replacement for implementation in the Antelope Valley Air Pollution Control District Rule 1207.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0029a; FRL–6236–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On September 16, 1997, the Governor of Colorado submitted a request to redesignate the Greeley “not classified” carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). The Governor also submitted a CO maintenance plan which included a 1990 base year emissions inventory. In this action, EPA is approving the Greeley CO redesignation request, the maintenance plan, and the 1990 base year emissions inventory.

DATES: This direct final rule is effective on May 10, 1999 without further notice, unless EPA receives adverse comments by April 9, 1999. 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 500, 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 500, Denver, Colorado 80202–2466; and,

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

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

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the Clean Air Act (CAA), EPA designated the Greeley area as nonattainment for CO because the area had been previously designated as nonattainment before November 15, 1990. The Greeley area was classified as a “not classified” CO nonattainment area as the area had not violated the CO NAAQS in 1988 and 1989.¹

Under the CAA, designations can be changed if sufficient data are available to warrant such changes and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a

redesignation of a nonattainment area to attainment unless:

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

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

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

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

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

Thus, before EPA can approve the redesignation request, EPA must find, among other things, that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur prior to final approval of the redesignation request or simultaneously with final approval of the redesignation request. EPA notes there are no outstanding SIP elements necessary for the redesignation.

Section 110(k) of the CAA sets out provisions governing EPA's action on submissions of revisions to a State Implementation Plan. The CAA also requires States to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing prior to being submitted by a State to EPA. For the revision to the Colorado SIP, Carbon Monoxide (CO) Redesignation Request and Maintenance Plan for Greeley, a public hearing was held on September 16, 1996, by the Colorado Air Quality Control Commission (AQCC). The redesignation request, maintenance plan, and 1990 base year CO emissions inventory were adopted by the AQCC directly after the hearing. These SIP revisions became State effective November 30, 1996, and were submitted by the Governor to EPA on September 16, 1997. EPA has evaluated the submittal and has determined that the above procedural actions were accomplished in compliance with section 110(a)(2) of the CAA. By operation of law under the provisions of section 110(k)(1)(B) of the

¹The EPA describes areas as “not classified” if they were designated nonattainment both prior to enactment and (pursuant to CAA section 107(d)(1)(C)) at enactment, and if the area did not violate the primary CO NAAQS in either year for the 2-year period of 1988 through 1989. Refer to the “General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990”, 57 FR 13498, April 16, 1992. See specifically 57 FR 13535, April 16, 1992.

CAA, the submittal became complete on March 16, 1998.

II. Evaluation of Redesignation Requirements

EPA has reviewed the State's redesignation request, maintenance plan, and the 1990 base year emission inventory and believes that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). Descriptions of how the section 107(d)(3)(E) requirements are being addressed are provided below.

Section 1. 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 standard for carbon monoxide is 9 parts per million (10 milligrams per cubic meter) for an 8-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 standard is not a momentary phenomenon based on short-term data. Rather, for an area to be considered attainment, each of the CO ambient air quality monitors in the area are allowed to record no more than one exceedance of the CO standard over a one-year period. 40 CFR 50.8 and 40 CFR part 50, appendix C. If a single monitor in the CO monitoring network records more than one exceedance of the CO standard during a one-year calendar period, then the area is in violation of the CO NAAQS. In addition, EPA's interpretation of the CAA and EPA national policy² has been that an area seeking redesignation to attainment must show attainment of the CO NAAQS for a continuous two-year calendar period and, additionally, at least through the date that EPA promulgates the redesignation to attainment in the **Federal Register**.

Colorado's CO redesignation request for the Greeley area is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the redesignation request. Ambient air quality monitoring data for

consecutive calendar years 1988 through 1997 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the Greeley nonattainment area. 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 EPA's Aerometric Information and Retrieval System (AIRS) national database. Further information on CO monitoring is presented in section 2 of the State's maintenance plan and in the State's TSD. EPA has evaluated the ambient air quality data and has determined that the Greeley area has not violated the CO standard and continues to demonstrate attainment.

Because the Greeley nonattainment area has quality-assured data showing no violations of the CO NAAQS for 1994 and 1995, the years the State used to support the redesignation request, and additionally, over the most recent consecutive two-calendar-year period (i.e., 1997 and 1998), the Greeley area has met the first component for redesignation: demonstration of attainment of the CO NAAQS. EPA notes that the State of Colorado has also committed in the maintenance plan to the necessary continued operation of the CO monitor in compliance with all applicable federal regulations and guidelines.

Section 2. Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

Section 107(d)(3)(E)(v) requires that, to be redesignated to attainment, an area must meet all applicable requirements under section 110 and part D of the CAA. EPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation to be approved, 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. Requirements of the CAA due after the submission of a complete redesignation request need not be considered in evaluating the request.

A. CAA Section 110 Requirements

The Greeley CO element of the Colorado SIP was adopted by the Colorado Air Quality Control Commission (AQCC) in June of 1982 and was approved by the EPA on December 12, 1983 (48 FR 55284). The 1982 SIP element's emission control plan was based on emission reductions from the Federal Motor Vehicle Control Program (FMVCP) and local transportation control measures. The

anticipated date for attaining the 8-hour CO NAAQS was December 31, 1987.

In May of 1986, the Colorado Air Pollution Control Divisions (APCD) determined that the Greeley area would not be able to attain the CO NAAQS by the end of 1987 (this determination was based on estimated emission reductions and ambient air quality monitoring data.) EPA confirmed the APCD's evaluations, determined that the SIP was inadequate, and published a call on the SIP on January 16, 1987 (52 FR 1908). In response to EPA's SIP Call, the Greeley CO element of the SIP was revised by the AQCC in September of 1987. The Governor submitted the revised Greeley CO SIP element on November 25, 1987 (with supplemental information being submitted on February 25, 1988). The 1987 SIP revision contained additional emission controls consisting of the implementation of a decentralized basic motor vehicle inspection and maintenance (I/M) program, oxygenated fuels, and emission standards for new wood burning stoves. EPA approved this revision for the Greeley CO element of the SIP on September 3, 1992 (57 FR 40331).

Although section 110 of the CAA was amended in 1990, most of the changes were not substantial. The only additional CAA requirement assigned to the Greeley area was the preparation and submittal of a 1990 base year CO emission inventory. The Governor submitted this base year inventory on September 16, 1997, as part of the maintenance plan for the Greeley redesignation request. EPA is approving this 1990 base year emissions inventory concurrent with its approval of the maintenance plan. Thus, EPA has determined that the SIP revisions approved in 1992 continue to satisfy the requirements of section 110(a)(2). For further detail, please see 57 FR 40331.

B. Part D Requirements

Before the Greeley not classified 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.

The relevant Subpart 1 requirements are contained in sections 172(c) and 176. The General Preamble (57 FR 13498, April 16, 1992) provides EPA's interpretations of the CAA requirements for not classified CO areas (see 57 FR 13535):

² Refer to EPA's September 4, 1992, John Calcagni policy memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment."

Although it seems clear that the CO-specific requirements of subpart 3 of part D do not apply to CO "not classified" areas, the 1990 CAAA are silent as to how the requirements of subpart 1 of part D, which contains general SIP planning requirements for all designated nonattainment areas, should be interpreted for such CO areas. Nevertheless, because these areas are designated nonattainment, some aspects of subpart 1 necessarily apply.

Under section 172(b), the applicable section 172(c) requirements, as determined by the Administrator, were due no later than three years after an area was designated as nonattainment under section 107(d) of the amended CAA (see 56 FR 56694). In the case of the Greeley area, the due date was November 15, 1993. As the Greeley CO redesignation request and maintenance plan were not submitted by the Governor until September 16, 1997, the General Preamble (57 FR 13535) provides that the applicable requirements of CAA section 172 are 172(c)(3) (emissions inventory), 172(c)(5) (new source review permitting program), and 172(c)(7) (the section 110(a)(2) air quality monitoring requirements). EPA has determined that Part D requirements for Reasonably Available Control Measures (RACM), an attainment demonstration, reasonable further progress (RFP), and contingency measures (CAA section 172(c)(9)) are not applicable to not classified CO areas. See 57 FR 13535, April 16, 1992.

It is also worth noting that EPA has interpreted the requirements of sections 172(c)(1) (reasonable available control measures—RACM), 172(c)(2) (reasonable further progress—RFP), 172(c)(6) (other measures), and 172(c)(9) (contingency 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, "Procedures for Processing Requests to Redesignate Areas to Attainment", and the General Preamble, 57 FR 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.

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, EPA has 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 applicable requirements of CAA section 172 are discussed below.

(1) Section 172(c)(3)—Emissions Inventory

Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of all actual emissions from all sources in the Greeley nonattainment area. EPA's interpretation of the emission inventory requirement for "not classified" CO nonattainment areas is detailed in the General Preamble (57 FR 13535, April 16, 1992). EPA determined that an emissions inventory is specifically required under CAA section 172(c)(3) and is not tied to an area's proximity to attainment. EPA concluded that an emissions inventory must be included as a revision to the SIP and was due 3 years from the time of the area's designation. For "not classified" CO areas, this date became November 15, 1993. To address the section 172(c)(3) requirement for a "current" inventory, EPA interpreted "current" to mean calendar year 1990 (see 57 FR 13502, April 16, 1992).

On September 16, 1997, the Governor submitted the 1990 base year inventory for the Greeley CO nonattainment area. A Summary of the 1990 CO daily seasonal emissions are provided in the Table II.-1 below.

TABLE II.-1.—SUMMARY OF 1990 CO EMISSIONS (TONS PER DAY) FOR GREELEY

Point Sources	Area Sources	On-Road Mobile	Non-Road Mobile	Total
1.85	2.99	48.3	5.31	58.45

All supporting calculations and documentation for this 1990 CO base year inventory are contained in the State's Technical Support Document (TSD) which supports this action. EPA is approving this 1990 base year CO inventory concurrent with its approval of the redesignation request and maintenance plan.

(2) Section 172(c)(5) New Source Review (NSR)

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 the redesignation to attainment is approved by EPA.

(3) Section 172(c)(7)—Compliance With CAA Section 110(a)(2): Air Quality Monitoring Requirements

According to EPA's interpretations presented in the General Preamble (57 FR 13535), "not classified" CO nonattainment areas should meet the "applicable" air quality monitoring requirements of section 110(a)(2) of the CAA as explicitly referenced by sections 172(b) and (c) of the CAA. With respect to this requirement, the State indicates in Section 2 ("Attainment of the Carbon Monoxide Standard") of the maintenance plan, that ambient CO monitoring data have been properly collected and uploaded to EPA's Aerometric Information and Retrieval System (AIRS) since 1976 for the

Greeley area. Air quality data through 1996 are included in Section 2 of the maintenance plan and in the State's TSD. EPA has more recently polled the AIRS database and has verified that the State has also uploaded additional ambient CO data through 1997. The data in AIRS indicate that the Greeley area has shown, and continues to show, attainment of the CO NAAQS. Information concerning CO monitoring in Colorado is included in the Monitoring Network Review (MNR) prepared by the State and submitted to EPA. EPA personnel have concurred with Colorado's annual network reviews and have agreed that the Greeley network remains adequate. Finally, in Section 6, D. of the maintenance plan, the State commits to the continued operation of the existing CO monitor, according to all applicable Federal regulations and guidelines, even after

the Greeley area is redesignated to attainment for CO.

Section 3. 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).

Based on the approval into the SIP of provisions under the pre-1990 CAA, EPA's prior approval of SIP revisions required under the 1990 amendments to the CAA, and EPA's approval in this action of the 1990 emissions inventory and the State's commitment to maintain an adequate monitoring network (both contained in the maintenance plan), EPA has determined that, as of the date of this **Federal Register** action, Colorado has a fully approved CO SIP under section 110(k) for the Greeley CO nonattainment area.

Section 4. 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 (Greeley CO revision as approved on September 3, 1992, 57 FR 40331), implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

The CO emissions reductions that were derived from the November 25, 1987, SIP revision, as further described in Sections 3. and 4. of the September 16, 1997, Greeley maintenance plan, were achieved primarily through the Federal Motor Vehicle Control Program (FMVCP), a decentralized basic motor vehicle inspection and maintenance (I/M) program, oxygenated fuels, and emission standards for new wood burning stoves.

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

Greeley. 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.

In addition, as stated in Section 4. of the maintenance plan, significant additional emission reductions were realized from Greeley's basic I/M program. Colorado's Regulation No. 11, "Motor Vehicle Emissions Inspection Program", contains a full description of the requirements for Greeley's I/M program. EPA notes that further improvements to the Greeley area's basic I/M program were implemented in January, 1995, to meet the requirements of EPA's November 5, 1992, (57 FR 52950) I/M rule and were approved by EPA into the SIP on March 19, 1996 (61 FR 11149).

Oxygenated fuels are gasolines that area 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 Greeley nonattainment area. Regulation 13 requires all Greeley-area gas stations to sell fuels containing a 2.7% minimum oxygen (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.

All new Woodburning devices (stoves, fireplaces, fireplace inserts, etc.) are regulated by Colorado's Regulation No. 4, "Regulation on the Sale of New Woodstoves and the use of Certain Woodburning Appliances During High Pollution Days". Regulation No. 4 mirrors the Federal standards for woodburning devices and also contains the requirements for the "burn" and "no burn" days during the high pollution wintertime season. Although CO emissions from woodburning devices increased slightly from 2.72 tons per day (TPD) in 1990 to 2.89 TPD in 1995, as presented in Tables IV. and V. of Section 6. of the maintenance plan, Regulation No. 4 still provided assistance to the Greeley area by controlling CO emissions from existing sources and reducing the potential CO emission increases from new sources.

EPA has evaluated the various State and Federal control measures, the 1990 base year emission inventory, and the 1995 attainment year emission

inventory, and has concluded that the improvement in air quality in the Greeley nonattainment area has resulted from emission reductions that are permanent and enforceable.

Section 5. 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. For areas such as Greeley, that are utilizing EPA's limited maintenance plan approach, the EPA guidance memorandum entitled "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, Group Leader, Integrated Policy and Strategies Group, Office of Air Quality and Planning Standards, dated October 6, 1995, states that the maintenance plan demonstration requirement is considered to be satisfied for nonclassifiable areas if the monitoring data show that the area is meeting the air quality criteria for limited maintenance areas (i.e., a design value at or below 7.65 ppm, or 85% of the CO NAAQS, based on the 8 consecutive quarters—2 years of data—used to determine attainment). There is no requirement to project emissions over the maintenance period. EPA believes if the area begins the maintenance period at or below 85 percent of CO NAAQS, the continued applicability of PSD requirements, any control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the initial 10-year maintenance period. In addition, the design value for the area must continue to be at or below 7.65 ppm until the time of final EPA action on the redesignation. The method for calculating the design value is presented in the June 18, 1990, EPA guidance memorandum entitled "Ozone and Carbon Monoxide Design Value Calculations", from William G. Laxton, Director of the OAQPS Technical Support Division, to Regional Air Directors. In the case of a nonclassifiable area applying for a limited maintenance plan, all the monitors must have a separate design value calculated and the highest design value must be at or below 7.65 ppm. Should the design value for the area

exceed 7.65 ppm prior to final EPA action on the redesignation, then the area no longer qualifies for the limited maintenance plan and must instead submit a full maintenance plan as described in EPA's September 4, 1992, guidance memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment", from John Calcagni, Director of the Air Quality Management Division, OAQPS to the Regional Air Division Directors.

Eight years after EPA's approval of this redesignation, the State must submit a revised maintenance plan that demonstrates continued maintenance of the CO NAAQS for 10 years 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, EPA 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. In this **Federal Register** action, EPA is approving the State of Colorado's limited maintenance plan for the Greeley nonattainment area because EPA has determined, as detailed below, that the State's maintenance plan submittal meets the requirements of section 175A and is consistent with the documents referenced above. EPA's analysis of the pertinent maintenance plan requirements, with reference to the Governor's September 16, 1997, submittal, is provided as follows:

A. Emissions Inventory—Attainment Year

EPA's interpretations of the CAA section 175A maintenance plan requirements for a limited maintenance plan are described in the October 6, 1995, policy memorandum referenced above. The State is to develop an attainment year emissions inventory to identify a level of emissions in the area which is sufficient to attain the CO

NAAQS. This inventory is to be consistent with EPA's most recent guidance on emissions inventories for nonattainment areas available at the time³ and should represent emissions during the time period associated with the monitoring data showing attainment.

The maintenance plan that the Governor submitted on September 16, 1997, included a comprehensive inventory of CO emissions for the Greeley area for a typical CO season day in 1995. This inventory includes emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State selected 1995 as the year from which to develop the attainment year inventory as it was using 1994 and 1995 as the two most recent years (or 8 quarters) that demonstrated attainment of the CO NAAQS for Greeley. A more detailed description of the 1995 attainment year inventory is documented in the maintenance plan, Section 6, 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 1995 attainment year are provided in Table II.-2 below.

TABLE II.-2.—SUMMARY OF 1995 CO EMISSIONS (TONS PER DAY) FOR GREELEY

Point sources	Area sources	On-road mobile	Non-road mobile	Total
1.67	3.17	33.99	5.56	44.39

B. Demonstration of Maintenance

As described in the October 6, 1995, limited maintenance plan guidance memorandum, the maintenance plan demonstration requirement is considered to be satisfied for nonclassifiable areas (such as Greeley) if the monitoring data show that the area is meeting the air quality criteria for limited maintenance areas (i.e., equal to or less than 7.65 ppm design value). There is no requirement to project emissions over the maintenance period. EPA believes that if an area begins the maintenance period at or below 85 percent of the CO NAAQS (7.65 ppm), the continued application of control measures already in the SIP, PSD requirements, and Federal measures provides adequate assurance of maintenance over the initial 10-year maintenance period.

C. Monitoring Network and Verification of Continued Attainment

EPA's October 6, 1995, limited maintenance plan guidance memorandum states that to verify the attainment status of an area, such as Greeley, over the maintenance period, the maintenance plan should contain provisions for the continued operation of an appropriate, EPA-approved air quality monitoring network in accordance with 40 CFR part 58.

This requirement is met in section 6.D. of the Greeley maintenance plan. This section states that the Colorado Air Pollution Control Division (APCD) has operated (since December, 1976), and will continue to operate, the Greeley monitoring network in full accordance with the provisions of 40 CFR part 58 and the EPA-approved Colorado Monitoring SIP element. The APCD will

also analyze the monitoring data to verify continued attainment of the CO NAAQS for the Greeley area. The above air quality monitoring commitment by the State, which will be enforceable by EPA after this final approval of the Greeley maintenance plan SIP revision, is deemed adequate by EPA.

D. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. As stated in section 6.E.2.a. of the maintenance plan, the State will use an exceedance of the CO NAAQS as the trigger for adopting specific contingency measures for the Greeley area. The State indicates that notification to EPA, and

³The October 6, 1995, limited maintenance plan guidance memorandum states that current guidance on the preparation of emissions inventories for CO areas is contained in the following documents:

"Procedures for the Preparation of Emission Inventories for Carbon Monoxide and Precursors of Ozone: Volume I" (EPA-450/4-91-016), and "Procedures for Emission Inventory Preparation:

Volume IV, Mobile Sources" (EPA-450/4-81-026d revised).

other affected governments, of the exceedance will generally occur within 30 days, but no longer than 45 days. Upon notification of a CO NAAQS exceedance, the APCD and the local governments in the Greeley area will convene a committee to recommend an appropriate contingency measure or measures that would be necessary to correct a violation of the CO NAAQS standard. The committee would then propose the necessary contingency measure(s) for adoption. The State estimates this process would be completed within 6 months of the exceedance and that the local and State public hearing processes would then begin. The hearing processes should then be completed within three months and the AQCC adopted measure(s) would then become effective if a violation of the CO NAAQS is recorded. Full implementation of the adopted contingency measure(s) should then be achieved within one year after the date of the recording of the CO NAAQS violation. The potential contingency measures, identified in section 6.E.3. of the Greeley maintenance plan, include increasing the required 2.7 percent minimum oxygen content of gasoline to a level above the actual oxygen content of gasolines at the time of the violation, improvements to Greeley's I/M program, establishing a high pollution day episodic woodburning curtailment program, and re-establishing the stationary source NSR permitting program. A more complete description of the triggering mechanism and these contingency measures can be found in sections 6.E.2. and 6.E.3. of the maintenance plan.

It should be noted that the State makes a statement in section 6.E.2 of the maintenance plan that may be misleading. The section 6.E.2 text states the following:

The guidance indicates that the triggering of the contingency plan does not require a revision to the SIP nor is the area redesignated once again to nonattainment. Instead, the State will have an appropriate time-frame to correct the violation with implementation of one or more adopted contingency measures. In the event that violations continue to occur, there is the possibility of adopting additional contingency measures until the violations are corrected.

Under section 175A(d) of the CAA, the Administrator of EPA has the discretion to require a SIP revision if an area fails to maintain the NAAQS after redesignation, and has the discretion under section 107(d)(3) of the CAA to redesignate an area back to nonattainment upon a violation of the NAAQS. Since EPA does not believe the

State's language is intended to limit EPA's authority under these sections of the CAA, and does not believe the State has the ability to limit such authority in any event, EPA is not requiring the State to change this language.

Based on the above, EPA finds that the contingency measures provided in the State's maintenance plan for Greeley are sufficient and meet the requirements of section 175A(d) of the CAA and the October 6, 1995, limited maintenance plan guidance memorandum.

E. Subsequent Maintenance Plan Revisions

The State of Colorado has committed to submit a revised maintenance plan for Greeley as required by the CAA and EPA requirements. This commitment for revising the maintenance plan is contained in section 6.F. of the Greeley maintenance plan. As the State notes in section 6.F., section 175A(b) of the CAA requires the State to submit a maintenance plan revision to EPA eight (8) years after EPA redesignates the Greeley area to attainment. The State should be aware that, because EPA is redesignating the Greeley area in early 1999, the date for submitting the maintenance plan revision will be significantly earlier than the State projects it to be in the maintenance plan.

III. Conformity

Because the Greeley area qualified for and utilized EPA's Limited Maintenance Plan national policy,⁴ special conformity provisions apply as indicated below in an excerpt from such policy:

e. Conformity Determinations Under Limited Maintenance Plans

The transportation conformity rule (58 FR 62188; November 24, 1993) and the general conformity rule (58 FR 63214; November 30, 1993) apply to nonattainment areas and maintenance areas operating under maintenance plans. Under either rule, one means of demonstrating conformity of Federal actions is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area. Emissions budgets in limited maintenance plan areas may be treated as essentially not constraining for the length of the initial maintenance period because it is unreasonable to expect that such an area will experience so much growth in that period that a violation of the CO NAAQS would result. In other words, EPA would be concluding that emissions need not be capped for the maintenance period. Therefore, in areas with approved limited

⁴ Refer to EPA's October 6, 1995, Joseph Paisie policy memorandum entitled "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas."

maintenance plans, Federal actions requiring conformity determinations under the transportation conformity rule could be considered to satisfy the "budget test" required in sections 93.118, 93.119, and 93.120 of the rule. Similarly, in these areas, Federal actions subject to the general conformity rule could be considered to satisfy the "budget test" specified in section 93.158(a)(5)(i)(A) of the rule.

IV. Final Action

In this action, EPA is approving the Greeley carbon monoxide redesignation request, maintenance plan, and the 1990 base year emissions inventory.

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, EPA is 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 May 10, 1999 without further notice unless the Agency receives adverse comments by April 9, 1999.

If EPA receives such comments, then EPA 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 May 10, 1999 and no further action will be taken on the proposed rule.

V. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior

consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local, or tribal governments. The rule does not impose any enforceable duties on state, local, or tribal governments. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E. O. 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 and 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 E. O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's

prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

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

E. 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 final 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 Federal SIP 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 a 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 on small entities. Redesignation to attainment is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that the approval of the redesignation request will not affect a substantial number of small entities.

F. Unfunded Mandates

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

EPA has determined that 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 a redesignation to attainment and 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, will result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of 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 the publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. 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 May 10, 1999. 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).)

Nothing in this action should be construed as making any determination or expressing any position regarding Colorado's audit privilege and penalty immunity law, sections 13-25-126.5, 13-90-107, and 25-1-114.5, Colorado Revised Statutes (Colorado Senate Bill 94-139, effective June 1, 1994), or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Colorado's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211, or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the

Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

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

Dated: February 12, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

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

PART 52—[AMENDED]

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

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

Subpart G—Colorado

2. Section 52.348 is amended by adding paragraph (c) to read as follows:

§ 52.348 Emission inventories.

* * * * *

(c) On September 16, 1997, the Governor of Colorado submitted the

COLORADO—CARBON MONOXIDE

1990 Carbon Monoxide Base Year Emission Inventory for Greeley as a revision to the Colorado State Implementation Plan. This inventory addresses carbon monoxide emissions from stationary point, area, non-road, and on-road mobile sources.

3. New section 52.349 is added to read as follows:

§ 52.349 Control strategy: Carbon monoxide.

Revisions to the Colorado State Implementation Plan, Carbon Monoxide Redesignation Request and Maintenance Plan for Greeley, as adopted by the Colorado Air Quality Control Commission on September 19, 1996, State effective November 30, 1996, and submitted by the Governor on September 16, 1997.

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 "Greeley Area" to read as follows:

§ 81.306 Colorado.

* * * * *

Designated area	Designation			Classification		
	Date ¹	Type		Date ¹	Type	
* * * * *						
Greeley Area:		Attainment				
Weld County (part)	May 10, 1999.					
Urban boundaries as defined in the North Front Range Regional Transportation Plan, May, 1990..						
* * * * *						

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

[FR Doc. 99-5661 Filed 3-9-99; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300795; FRL-6062-5]

RIN 2070-AB78

Metolachlor; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerances for the combined residues of metolachlor and its metabolites determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on tomatoes, tomato puree, and tomato paste. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and