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 rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which 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, Intergovernmental regulations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 10, 2004.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 04–21824 Filed 9–29–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RME Docket Number R08–OAR–2004–CO–0003; FRL–7822–3]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Longmont Revised Carbon Monoxide Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving a State Implementation Plan (SIP) revision submitted by the State of Colorado. On April 12, 2004, the Governor of Colorado submitted a revised maintenance plan for the Longmont carbon monoxide (CO) maintenance area for the CO National Ambient Air Quality Standard (NAAQS). The revised maintenance plan contains revised transportation conformity motor vehicle emissions budgets for the years 2010 through 2014 and for 2015 and beyond. In this action, EPA is approving the Longmont CO revised maintenance plan and the revised transportation conformity motor vehicle emissions budgets. This action is being taken under section 110 of the Clean Air Act.

DATES: This rule is effective on November 29, 2004 without further notice, unless EPA receives adverse comment by November 1, 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: Submit your comments, identified by RME Docket Number R08–OAR–2004–CO–0003, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Agency Web site: *http://docket.epa.gov/rmepub/index.jsp.* Regional Materials in EDOCKET (RME), EPA's electronic public docket and comment system for regional actions, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- E-mail: *long.richard@epa.gov* and *russ.tim@epa.gov.*
- Fax: (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- Mail: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.
- Hand Delivery: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 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. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME Docket Number R08–OAR–2004–CO–0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available at *http://docket.epa.gov/rmepub/index.jsp,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. EPA's Regional Materials in EDOCKET and federal regulations.gov Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET online or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the Regional Materials in EDOCKET index at *http://docket.epa.gov/rmepub/index.jsp.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in Regional Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone (303) 312–6479, and e-mail at: *russ.tim@epa.gov.*

SUPPLEMENTARY INFORMATION:

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *NAAQS* mean National Ambient Air Quality Standard.

(iv) The initials *SIP* mean or refer to State Implementation Plan.

(v) The word *State* means the State of Colorado, unless the context indicates otherwise.

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. Submitting CBI

Do not submit this information to EPA through Regional Materials in EDOCKET, *regulations.gov*, or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes 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 public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. What Is the Purpose of This Action?

In this action, we are approving a revised maintenance plan for the Longmont CO attainment/maintenance area that is designed to keep the area in attainment for CO through 2015, and we're approving revised transportation conformity motor vehicle emissions budgets (MVEB). We approved the original CO redesignation to attainment and maintenance plan for the Longmont area on September 24, 1999 (*see* 64 FR 51694).

The original Longmont CO maintenance plan that we approved on September 24, 1999 (hereafter September 24, 1999 maintenance plan) utilized the then applicable EPA mobile sources emission factor model, MOBILE5a. On January 18, 2002, we issued policy guidance for States and local areas to use to develop SIP revisions using the new, updated version of the model, MOBILE6. The policy guidance was entitled "Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity" (hereafter, January 18, 2002 MOBILE6 policy). On November 12, 2002, EPA's Office of Transportation and Air Quality (OTAQ) issued an updated version of the MOBILE6 model, MOBILE6.2, and notified Federal, State, and local agency users of the model's availability. MOBILE6.2 contained additional updates for air toxics and particulate matter. However, the CO emission factors were essentially the same as in the MOBILE6 version of the model.

For the years analyzed in the September 24, 1999 maintenance plan (1993, 2005, 2010, and 2015), the State revised and updated the mobile sources CO emissions using MOBILE6.2. With the revised maintenance plan, the State also provided emissions data for 2006. The State recalculated the CO MVEB for 2010 through 2014 and applied a selected amount of the available safety margin to the 2010 through 2014 transportation conformity MVEB. The State recalculated the CO MVEB for 2015 and beyond and also applied a selected amount of the available safety margin to the 2015 and beyond transportation conformity MVEB. We have determined that all the revisions noted above are Federally-approvable, as described further below.

III. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a State to us.

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the revised Longmont Carbon Monoxide (CO) Maintenance Plan December 18, 2003. The AQCC adopted the revised maintenance plan directly after the hearing. This SIP revision became State effective on March 1, 2004, and was submitted by the Governor to us on April 12, 2004.

We have evaluated the Governor's submittal for the revised maintenance plan and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. We reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V and determined that the submittal was administratively and technically complete. The Governor was advised of our completeness determination through a letter from Robert E. Roberts, Regional Administrator, dated June 17, 2004.

IV. EPA's Evaluation of the Revised Maintenance Plan

EPA has reviewed the State's revised maintenance plan for the Longmont attainment/maintenance area and believes that approval is warranted. The following are the key aspects of this revision along with our evaluation of each:

(a) The State has revised the Longmont maintenance plan and has air quality data that show continuous attainment of the CO 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. The September 24, 1999 maintenance plan relied on ambient air quality data from 1989 through 1996. In our consideration of the revised Longmont CO maintenance plan, submitted by the Governor on April 12, 2004, we reviewed ambient air quality data from 1993 through 2003 and the first calendar quarter of 2004. The Longmont area shows continuous attainment of the CO NAAQS from 1993 to present. All of the above-referenced air quality data are archived in our Aerometric Information and Retrieval System (AIRS).

(b) Using the MOBILE6.2 emission factor model, the State revised the attainment year inventory (1993), prior projected years (2005, 2010, and 2015) inventories and a new projected year (2006) emission inventory.

The revised maintenance plan that the Governor submitted on April 12, 2004 includes comprehensive inventories of CO emissions for the Longmont area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. More detailed descriptions of the revised 1993 attainment year inventory, the revised 2005, 2010, and 2015 projected inventories, and the new projected 2006 inventory, are documented in the maintenance plan in section 2 entitled "Emission Inventories and Maintenance Demonstration" and in the State's Technical Support Document (TSD). The State's submittal contains emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures from the 1993 attainment year and the projected years are provided in Table IV.–1 below.

TABLE IV.–1.—SUMMARY OF CO EMISSIONS IN TONS PER DAY FOR LONGMONT

Source category	1993	2005	2006	2010	2015
Point	0.18	0.12	0.12	0.09	0.07
Area	2.69	1.92	1.86	1.60	1.28
Non-Road	6.58	7.91	8.03	8.47	9.02
On-Road	43.26	33.97	35.32	28.01	25.99
Total	52.71	43.92	45.33	38.17	36.36

The revised mobile source emissions show the largest change from the September 24, 1999 maintenance plan and this is primarily due to the use of MOBILE6.2 instead of MOBILE5a. The MOBILE6.2 modeling information is contained in the State's TSD (see "Mobile Source Emission Inventories," page 6) and on a compact disk we prepared (a copy is available upon request). The State's TSD information is also available on a compact disk that may be requested from the State or it can be downloaded directly from the State's Web site at *http://apcd.state.co.us/documents/techdocs.html*. The TSD compact disk contains much of the modeling data, input-output files, fleet makeup, MOBILE6.2 input parameters, and other information and is included with the docket for this action. Other revisions to the mobile sources category resulted from revised vehicle miles traveled (VMT) estimates that were provided to the State from the Denver Regional Council of Governments (DRCOG), which is the metropolitan planning organization (MPO) for the Longmont area. In summary, the revised maintenance plan and State TSD contain detailed emission inventory information that was prepared in accordance with EPA guidance and is acceptable to EPA.

(c) The State revised the maintenance demonstration used in the September 24, 1999 Longmont maintenance plan.

As noted above, the State used the MOBILE6.2 model to revise the Longmont CO maintenance plan. Our January 18, 2002, MOBILE6 policy allows areas to revise their motor vehicle emission inventories and transportation conformity MVEBs using the MOBILE6 model without needing to revise the entire SIP or completing additional modeling if: (1) The SIP continues to demonstrate attainment or maintenance when the MOBILE5-based motor vehicle emission inventories are replaced with MOBILE6 base year and attainment/maintenance year inventories; and (2) the State can document that the growth and control strategy assumptions for non-motor vehicle emission sources continue to be valid and minor updates do not change the overall conclusion of the SIP. Our January 18, 2002 MOBILE6 policy also speaks specifically to CO maintenance plans on page 10 of the policy. The first paragraph on page 10 of the policy states "* * * if a carbon monoxide (CO) maintenance plan relied on either a relative or absolute demonstration, the first criterion could be satisfied by documenting that the relative emission reductions between the base year and the maintenance year are the same or greater using MOBILE6 as compared to MOBILE5."

The State could have used the streamlined approach described in our January 18, 2002 MOBILE6 policy to update the Longmont CO MVEB. However, the Governor's April 12, 2004 SIP submittal instead contained a completely revised maintenance plan and maintenance demonstration for the Longmont area. That is, all emission source categories (point, area, non-road, and mobile) were updated using the latest versions of applicable models (including MOBILE6.2), transportation data sets, emissions data, emission factors, population figures, and other demographic information. We have determined that this fully revised maintenance plan SIP submittal exceeds the requirements of our January 18, 2002 MOBILE6 policy and, therefore, our January 18, 2002 MOBILE6 policy is not relevant to our approval of the revised maintenance plan and its MVEB.

As discussed above, the State prepared revised emission inventories for the years 1993, 2005, 2006, and 2010, and 2015. The results of these calculations are presented in Table 1 "Longmont Carbon Monoxide Maintenance Plan Emission Inventories" on page 4 of the revised Longmont maintenance plan and are also summarized in our Table IV.–1 above. The State has demonstrated that with the use of MOBILE6.2, mobile source emissions show a continuous decline from 1993 to 2015 and that the total CO emissions, from all source categories, projected for each future year (2005, 2006, 2010, and 2015) are all below the 1993 attainment year level of

CO emissions. Therefore, we have determined that the revised maintenance plan continues to demonstrate maintenance of the CO NAAQS from 1993 to 2015 and is approvable.

(d) *Monitoring Network and Verification of Continued Attainment:* Continued attainment of the CO NAAQS in the Longmont area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in section 5. "Monitoring Network/Verification of Continued Attainment" of the revised Longmont CO maintenance plan. In section 5., the State commits to continue the operation of the CO monitor in the Longmont area and to annually review this monitoring network and make changes as appropriate to meet the requirements of 40 CFR part 58.

Also, in section 6.A, the State commits to track mobile sources' CO emissions (which are the largest component of the inventories) through the ongoing regional transportation planning process that is done by DRCOG. Since regular revisions to Longmont's transportation improvement programs must go through a transportation conformity finding, the State will use this process to periodically review the Vehicle Miles Traveled (VMT) and mobile source emissions projections used in the revised maintenance plan. This regional transportation process is conducted by DRCOG in coordination with the State's Air Pollution Control Division (APCD), the AQCC, and EPA.

Based on the above, we are approving these commitments as satisfying the relevant requirements. We note that our final rulemaking approval renders the State's commitments federally enforceable. These commitments are also the same as we approved in the original maintenance plan.

(e) *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 of the revised maintenance plan, the contingency measures for the Longmont area will be triggered by a violation of the CO NAAQS. (However, the maintenance plan does note that an exceedance of the CO NAAQS may initiate a voluntary, local process by the City of Longmont, DRCOG, and APCD to identify and evaluate potential contingency measures.)

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

The potential contingency measures that are identified in section 6.C of the revised Longmont CO maintenance plan include: (1) An enhanced vehicle inspection and maintenance program as described in AQCC Regulation No. 11 as it existed prior to the modifications adopted by the AQCC on January 10, 2000; (2) a 3.1% oxygenated gasoline program from November 8 through February 7, with a 2.0% oxygen content required from November 1 through November 7; and (3) nonattainment New Source Review (NSR) permitting requirements.

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

(f) *Subsequent Maintenance Plan Revisions:* In accordance with section 175A(b) of the CAA, Colorado committed to submit a revised maintenance plan eight years after our approval of the original redesignation. This provision for revising the maintenance plan is contained in section 7 of the revised Longmont CO maintenance plan. In section 7, the State commits to submit a revised maintenance plan in 2007 to correspond with our initial approval of the original maintenance plan on September 24, 1999 (64 FR 51694).

Based on our review of the components of the revised Longmont CO maintenance plan, as discussed in our items IV.(a) through IV.(f) above, we have concluded that the State has met the necessary requirements in order for us to fully approve the revised Longmont CO maintenance plan.

V. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budget(s) in the SIP (40 CFR 93.118 and 93.124). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993 transportation conformity rule (58 FR 62193–62196) and in the sections of the rule referenced above.

With respect to maintenance plans, our conformity regulation requires that MVEB(s) must be established for the last year of the maintenance plan and may be established for any other years deemed appropriate (40 CFR 93.118). For transportation plan analysis years after the last year of the maintenance plan (in this case 2015), a conformity determination must show that emissions are less than or equal to the maintenance plan's motor vehicle emissions budget(s) for the last year of the implementation plan. EPA's conformity regulation (40 CFR 93.124) also allows the implementation plan to quantify explicitly the amount by which motor vehicle emissions could be higher while still demonstrating compliance with the maintenance requirement. The implementation plan can then allocate some or all of this additional "safety margin" to the emissions budget(s) for transportation conformity purposes.

Section 4 "Transportation Conformity and Mobile Source Carbon Monoxide Emission Budgets" of the revised Longmont CO maintenance plan briefly describes the applicable transportation conformity requirements, provides MVEB calculations, identifies "safety margin," and indicates that the City of Longmont and DRCOG elected to apply the identified "safety margin" to the MVEB for 2010 through 2014 and 2015 and beyond.

In section 4 of the revised maintenance plan, the State evaluated two MVEBs; a budget for 2015 (the last year of the maintenance plan) and beyond and a budget applicable to the years 2010 through 2014. For the 2015 MVEB, the State subtracted the total estimated 2015 emissions (from all sources) of 36.36 Tons Per Day (TPD) from the 1993 attainment year total

emissions of 52.71 TPD. This produced a "safety margin" of 16.35 TPD. The State then reduced this "safety margin" by one TPD. The identified "safety margin" of 15.35 TPD for 2015 was then added to the estimated 2015 mobile sources emissions, 25.99 TPD, to produce a 2015 MVEB of 41 TPD. For the 2010 through 2014 MVEB, the State subtracted the total estimated 2010 emissions (from all sources) of 38.17 TPD from the 1993 attainment year total emissions of 52.71 TPD. This produced a "safety margin" of 14.54 TPD. The State then reduced this "safety margin" by one TPD. The identified "safety margin" of 13.54 TPD for 2010 was then added to the estimated 2010 mobile sources emissions, 28.01 TPD, to produce a 2010 through 2014 MVEB of 41 TPD. These MVEBs were identified in the first sentence of paragraph two of section 4 of the revised maintenance plan which states, "The Longmont attainment/maintenance area mobile source emission budgets are 41 tons/day for 2010 through 2014 and 41 tons/day for 2015 and beyond." Based on this choice, and in order for a positive conformity determination to be made, transportation plan analyses for years 2010 through 2014 must show that motor vehicle emissions will be less than or equal to the 2010 through 2014 MVEB of 41 TPD of CO and transportation plan analyses for years 2015 and beyond must show that motor vehicle emissions will be less than or equal to the 2015 MVEB of 41 TPD of CO. The revised maintenance plan also states that the previously approved CO MVEB of 16.76 TPD for 2015 and beyond (see 64 FR 51694, September 24, 1999) is removed from the SIP and is replaced by the new MVEBs of 41 TPD for the years 2010 through 2014 and 41 TPD for 2015 and beyond. Therefore, we are approving the transportation conformity MVEBs of 41 TPD of CO for 2010 through 2014 and 41 TPD of CO for 2015 and beyond for the Longmont attainment/maintenance area.

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

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. The revised Longmont CO maintenance plan will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

VII. Final Action

In this action, EPA is approving the revised Longmont CO maintenance plan, that was submitted by the Governor on April 12, 2004, and the revised transportation conformity motor vehicle CO emission budgets for the years 2010 through 2014 and 2015 and beyond.

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 November 29, 2004 without further notice unless the Agency receives adverse comments by November 1, 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.

VIII. Statutory and Executive Order Reviews

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 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the 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 November 29, 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, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 22, 2004.

Kerrigan G. Clough,

Acting Regional Administrator, Region VIII.

■ 40 CFR part 52 is amended to read 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 52.349 is amended by adding paragraph (k) to read as follows:

§ 52.349 Control strategy: Carbon monoxide.

* * * * *

(k) Revisions to the Colorado State Implementation Plan, carbon monoxide NAAQS, revised maintenance plan for Longmont entitled "Revised Carbon Monoxide Maintenance Plan for the Longmont Attainment/Maintenance Area", as adopted by the Colorado Air Quality Control Commission on December 18, 2003, State effective March 1, 2004, and submitted by the Governor on April 12, 2004.

[FR Doc. 04–21926 Filed 9–29–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[OAR–2003–0228, FRL–7821–6]

RIN 2060–AG12

Protection of Stratospheric Ozone; Listing of Substitutes in the Foam Sector

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today the Environmental Protection Agency (EPA) is taking final action to change the listing of HCFC–141b from acceptable to unacceptable for use as a foam blowing agent under the Significant New Alternatives Policy (SNAP) Program under section 612 of the Clean Air Act. The SNAP program reviews alternatives to Class I and Class II ozone depleting substances and approves use of alternatives which reduce the overall risk to public health and the environment. On July 11, 2000 EPA issued a proposed rule concerning the use of several hydrochlorofluorocarbons (HCFCs) in foam blowing applications. On July 22, 2002, EPA took final action with respect to a number of the HCFCs, but deferred its decision on changing the list for HCFC–141b in foam blowing applications due to the pending production and import ban of HCFC–141b (effective as of January 1, 2003) and incomplete information regarding the technical viability of alternatives. Since the publication of that final rule, EPA received information from outside parties through letters, meetings, and the HCFC–141b Exemption Allowance Petition process (68 FR 2819) that addresses the use of HCFC–141b in foam blowing applications. On March 10, 2004, EPA issued a Notice of Data Availability (NODA) which contained the new information mentioned above and sought comment on its completeness and accuracy. Today, based on the information contained in the NODA and the comments received on the NODA, EPA is making its final decision to change the listing for use of HCFC–141b as a foam blowing agent from acceptable to unacceptable.

DATES: This rule is effective on November 29, 2004.

ADDRESSES: EPA has established an official public docket for this action under Docket ID No. OAR–2003–0228 (continuation of Docket A–2000–18). All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, confidential business information (CBI) or other information whose disclosure is restricted by statute is not publically available. Certain other material, such as copyrighted material, is also listed in the index but not placed on the Internet. This material will be publicly available only in hard copy form. Publicly available docket materials are available electronically in EDOCKET. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1742, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Suzie Kocchi, Stratospheric Protection Division, Office of Atmospheric Programs (6205J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9387; fax number: (202) 343–2363; e-mail address: *kocchi.suzanne@epa.gov.* The published versions of notices and rulemakings under the SNAP program are available on EPA's Stratospheric Ozone Web site at *http://www.epa.gov/ozone/snap/regs.*

SUPPLEMENTARY INFORMATION:

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I. Regulated Entities

Today's rule regulates the use of HCFC–141b as a foam blowing agent used in the manufacture of rigid polyurethane/polyisocyanurate foam products. Businesses that currently might be using HCFC–141b, or might want to use it in the future, include:

—Businesses that manufacture polyurethane/polyisocyanurate foam systems.

—Businesses that use polyurethane/polyisocyanurate systems to apply insulation to buildings, roofs, pipes, etc.