Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has 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.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–948 is added to read as follows:

§ 165.T09–948 Safety Zone: Lake Erie, Cleveland Harbor, Ohio.

(a) *Location.* The safety zone will include the navigable waters of Cleveland Harbor and Lake Erie beginning at coordinates 41°30′50″ N, 081°41′33″ W (the northwest corner of Burke Lakefront Airport); continuing northwest to coordinates 41°31′11″ N, 081°41′55″ W; thence southwest to 41°30′48″ N, 081°42′34″ W; then southeast to 41°30′27″ N, 081°42′13″ W (the northwest corner of dock 28 at the Cleveland Port Authority). (NAD 83)

(b) *Effective dates.* This section is effective from 9:30 p.m. until 10:30 p.m. on July 4, 2001.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Cleveland or his representative on the Coast Guard vessel on scene. The Coast Guard Patrol Commander may be contacted on VHF Channel 16.

Dated: June 2, 2001.

R.J. Perry,

Commander, U.S. Coast Guard, Captain of the Port, Cleveland, Ohio.

[FR Doc. 01–16184 Filed 6–26–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0063a; FRL–7000–7]

Determination of Attainment for the Carbon Monoxide National Ambient Air Quality Standard for Metropolitan Denver; State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action makes a determination of attainment for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS) for the metropolitan Denver CO nonattainment area which was classified as ''serious''. The Denver area was required by the Clean Air Act Amendments (CAAA) of 1990 to attain the CO NAAQS by December 31, 2000. This determination is based on complete, quality assured ambient air quality monitoring data for the years 1998, 1999, and 2000.

DATES: This direct final rule is effective on August 27, 2001 without further notice, unless EPA receives adverse comments by July 27, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices: United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; and, United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466Telephone number: (303) 312–6479.

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

I. What is the Purpose of This Action?

In this action, we are determining that the metropolitan Denver (hereafter Denver) CO nonattainment area, as described in 40 CFR 81.306, has attained the 8-hour CO NAAQS based on quality assured ambient air monitoring data for the years 1998, 1999, and 2000. This action is being taken as required by section 179 (c)(1) of the Clean Air Act (CAA) and is consistent with the requirements of section 186(b)(2) of the CAA for CO nonattainment areas. This determination of attainment does not redesignate the Denver area to attainment for the CO NAAQS. The CAA requires that for an area to be redesignated to attainment the five criteria in section 107(d)(3)(E) must first be satisfied and EPA must fully approve a maintenance plan for the area.

II. 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), we designated the Denver area as nonattainment for CO because the area had been designated as nonattainment before November 15, 1990. We originally designated Denver as nonattainment for CO under the provisions of the 1977 CAA Amendments (see 43 FR 8962, March 3, 1978). This designation was reaffirmed

by the 1990 CAA Amendments and Denver was classified as a ''moderate'' CO nonattainment area with a design value greater than or equal to 12.7 parts per million (ppm). See 56 FR 56694, November 6, 1991. The Denver area violated the 8-hour CO standard in 1995 and we reclassified the area as ''serious'' for CO in conjunction with our approval of the Denver CO element nonattainment State Implementation Plan (SIP) revision (see 62 FR 10690, March 10, 1997). CO nonattainment areas classified as ''serious'' were expected to attain the CO NAAQS as expeditiously as practical, but no later than December 31, 2000. Further information regarding this CO classification and the accompanying requirements are described in section 187 of the CAA and in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.'' (See 57 FR 13498, April 16, 1992.)

III. Analysis of Ambient Air Quality Monitoring Data

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. Instead, we consider an area to be in attainment if each of the CO ambient air quality monitors in the area doesn't have more than one exceedance of the CO standard over a one-year period. 40 CFR 50.8 and 40 CFR part 50, appendix C. If any monitor in the area's CO monitoring network records more than one exceedance of the CO standard during a one-year calendar period, then the area is in violation of the CO NAAQS. In addition, our interpretation of the CAA has been that to be considered in attainment for the CO NAAQS, an area must attain the CO NAAQS for at least a continuous two-year calendar period.[1]

Our determination that the Denver area has attained the CO NAAQS is based on an analysis of quality assured ambient air quality monitoring data that have been entered into AIRS and are relevant this action. State annual-certified ambient air quality monitoring data for calendar years 1998, 1999, and quarterly data from 2000[2] show a measured a design value of 5.4 ppm with an exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the Denver nonattainment area.

All of the data discussed above were collected and analyzed as required by EPA (see 40 CFR 50.8 and 40 CFR part 50, appendix C) and in accordance with EPA policy and guidance. The data have been archived by the State in our Aerometric Information and Retrieval System (AIRS) national database. We have evaluated the ambient air quality data and have determined that the Denver area has not violated the CO standard. Therefore, the Denver area has met its CAA requirement and attained the CO NAAQS by December 31, 2000.

IV. Final Action

In this action, EPA is determining that the Denver carbon monoxide ''serious'' nonattainment area attained the CO NAAQS by December 31, 2000.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to determine that the Denver area attained the CO NAAQS by December 31, 2000, should adverse comments be filed. This rule will be effective August 27, 2001 without further notice unless the Agency receives adverse comments by July 27, 2001.

If EPA receives such comments, then we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on August 27, 2001 and no further action will be taken on the proposed rule.

[1] June 18, 1990, Memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations.''

[2] Quarterly ambient air quality data for calendar year 2000 have been entered into AIRS and quality assured by the State as required by 40 CFR 58.35. However, the calendar year 2000 data are not required to be certified by the State until July 1, 2001 (see 40 CFR 58.26).

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 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 Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

(c) Executive Order 13084

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 13084 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. This action

does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

(d) Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely makes a determination of attainment, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

(e) Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because it will not create any new requirements. Therefore, because this Federal determination of attainment 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.

(f) Unfunded Mandates

Under sections 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 this determination of attainment 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 provides a determination of attainment and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

(g) Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2). This rule will be effective August 27, 2001 unless EPA receives adverse written comments by July 27, 2001.

(h) National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

(i) 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 August 27, 2001. 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: June 13, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Title 40, chapter I, part 52 of the Code of Federal Regulations is 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 52.349 is amended by adding paragraph (f) to read as follows:

§ 52.349 Control strategy: Carbon monoxide.

* * * * *

(f) *Determination.* EPA has determined that the Denver carbon monoxide ''serious'' nonattainment area attained the carbon monoxide national ambient air quality standard by December 31, 2000. This determination is based on air quality monitoring data from 1998, 1999, and 2000.

[FR Doc. 01–15873 Filed 6–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC 95–200034a; FRL–6993–9]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to Miscellaneous Volatile Organic Compounds Regulations Within the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On July 28, 2000, the North Carolina Department of Health and Natural Resources submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions include the adoption, revision and repeal of multiple Volatile Organic Compounds (VOCs) regulations. The purpose of these revisions is to make the revised regulations consistent with the requirements of the Clean Air Act as amended in 1990. The EPA is approving these revisions.

DATES: This direct final rule is effective August 27, 2001 without further notice, unless EPA receives adverse comment by July 27, 2001. 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: All comments should be addressed to: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Randy Terry, 404/562–9032. North Carolina Department of Environment, Health, and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy B. Terry at 404/562–9032.

SUPPLEMENTARY INFORMATION:

I. Background

On July 28, 2000, the North Carolina Department of Health and Natural Resources submitted revisions to the North Carolina SIP. These revisions include the adoption, revision and repeal of multiple VOC regulations. A detailed analysis of each of the major revisions submitted is listed below.

II. Analysis of State's Submittal

15A NCAC

2D .0518 Miscellaneous Volatile Organic Compound Emissions

This rule has been repealed. Most of the requirements set forth in this rule have become antiquated or have been incorporated into other air quality rules. The remaining requirements which have not been incorporated into other rules, will be covered in 15A NCAC 2D. 0958 Work Practice Standards for VOCs.

2D .0902 Applicability

This rule is being amended to add references to new or recently adopted VOC rules. This change is necessary in part to ensure that the requirements that were contained in 2D .0518 are now covered in new requirements located in 2D .0900 VOCs.

2D .0909 Compliance Schedules For Sources in New Nonattainment Areas.

This rule is being amended to remove references to 2D .0518.

2D .0948 VOC Emissions from Transfer Operations

This rule is being amended to correct minor administrative changes and clarifications.

2D .0949 VOC Storage of Miscellaneous Volatile Organic Compounds.

This rule is being amended to remove the requirement of having the director approve the vapor recovery system or any other means of air pollution. Approval must now be obtained through the permitting process.

2D .0950 Interim Standards for Certain Source Categories.

This rule is being repealed since it is obsolete and does not currently apply to any source.

2D .0951 Miscellaneous Volatile Organic Compound Emissions.

This rule is being amended to eliminate all former references to 2D .0518, add references to 2D .0958, and make other minor modifications to update this rule. Additionally, this rule is being revised to require the usage of Reasonably Available Control Technology (RACT), so that this rule remains consistent with the other rules in section 2D .0900.

2D .0958 Work Practices for Sources of Volatile Organic Compounds

This rule is being adopted to establish work practice standards for a wide spectrum of VOC sources. These work practice standards include such practices as: storing all VOC material in containers with tightly fitting lids, cleaning up all spills of VOC materials as soon as possible, and similar, reasonable controls for solvent cleaning activities. These new standards will replace the existing VOC requirements that have become antiquated.

2Q .0102 Activities Exempted From Permit Requirements

This rule is being revised to correct cross references to the state incinerator regulations.

2Q .0306 Permits Requiring Public Participation

This rule is being revised to correct cross references to the state incinerator regulations.

III. Final Action

EPA is approving the aforementioned changes to the SIP because the revisions are consistent with Clean Air Act and EPA regulatory requirements. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal 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 August 27, 2001 without further notice unless the Agency receives adverse comments by July 27, 2001.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and 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. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on August 27,