of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 12, 2010.

Carol Rushin,

Deputy Regional Administrator, Region 8.

[FR Doc. 2010–17790 Filed 7–20–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2010–0285; FRL–9177–2]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Attainment Demonstration for the 1997 8-Hour Ozone Standard, and Approval of Related Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to act on proposed revisions to Colorado's State Implementation Plan (SIP). On June 18, 2009, Colorado submitted proposed SIP revisions intended to ensure attainment of the 1997 ozone National Ambient Air Quality Standards (NAAQS) in the Denver Metro Area/North Front Range nonattainment area by 2010. The June 18, 2009 submittal consists of an ozone attainment plan, which includes emission inventories, a modeled attainment demonstration using photochemical grid modeling, a weight of evidence analysis, and 2010 motor vehicle emissions budgets for transportation conformity. The submittal also includes revisions to Colorado Regulation Numbers 3 and 7 and to Colorado's Ambient Air Quality Standards Regulation. EPA is proposing to approve the attainment demonstration, the rest of the ozone attainment plan, with limited exceptions, and the revisions to Colorado Regulation Number 3, Parts A and B. EPA is proposing to approve portions of the revisions to Colorado Regulation Number 7 and to disapprove other portions. EPA is proposing to disapprove Colorado Regulation Number 3, Part C, and Colorado's Ambient Air Quality Standards Regulation. EPA is proposing to disapprove limited portions of the ozone attainment plan. EPA is proposing these actions pursuant to section 110 and part D of the Clean Air Act (CAA) and EPA's regulations.

DATES: Comments must be received on or before August 20, 2010.

ADDRESSES: Submit your comments, identified by Docket ID Regulation Number EPA–R08–OAR–2010–0285, by one of the following methods:

• *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

• *E-mail: kenney.james@epa.gov.*

• *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

• *Mail:* James Kenney, Air Program, EPA Region 8, Mailcode 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129.

• *Hand Delivery:* James Kenney, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID Regulation Number EPA–R08–OAR–2010–0285. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* 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 *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* web site is an "anonymous access" system, 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 *http://www.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 the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://*

www.regulations.gov or in hard copy at the Air Program, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. 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: James C. Kenney, Air Program, EPA Region 8, Mailcode 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129, phone (303) 312–6176, e-mail *kenney.james@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

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

- The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.
- The initials *SIP* mean or refer to State Implementation Plan.
- The words *Colorado* and *State* mean the State of Colorado.

Table of Contents

I. General Information

What should I consider as I prepare my comments for EPA?

1. *Submitting CBI:* Do not submit CBI to EPA through *http://www.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 the Code of Federal Regulations (CFR) pursuant to 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 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 action is EPA proposing?

As enumerated below, EPA is proposing various actions on Colorado's proposed revisions to its State Implementation Plan (SIP) that it submitted to EPA on June 18, 2009, to ensure attainment of the 1997 ozone National Ambient Air Quality Standards (NAAQS) in the Denver Metro Area/North Front Range (DMA/NFR) nonattainment area. The DMA/NFR nonattainment area includes Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson Counties, and portions of Larimer and Weld Counties (40 CFR 81.306).

Colorado's proposed SIP revisions consist of the following parts:

- 8-Hour Ozone Attainment Plan (OAP), which includes monitoring information, emission inventories, a modeled attainment demonstration using photochemical grid modeling, a weight of evidence analysis, and 2010 motor vehicle emissions budgets (MVEBs) for transportation conformity.
- Revisions to Regulation Number 3, Parts A, B, and C.
- Revisions to Regulation Number 7.
- Revisions to Colorado's Ambient Air Quality Standards Regulation.

We are proposing to approve Colorado's 2010 attainment demonstration for the 1997 8-hour ozone NAAQS. We are proposing to approve the motor vehicle emissions budgets contained in the OAP. We are proposing to approve all other aspects of the OAP, with the following limited exceptions: we are proposing to disapprove the last paragraph on page IV–1 and the first paragraph on page IV–2 of the OAP, we are proposing to disapprove the words "federally enforceable" in the second to last paragraph on page V–6 of the OAP, and we are proposing to disapprove the reference to Attachment A in the OAP's Table of Contents and on page IV–3 of the OAP.

We are proposing to approve the revisions to Colorado Regulation Number 3, Parts A and B. We are proposing to disapprove the revisions to Colorado Regulation Number 3, Part C.

We are proposing to approve the following portions of the revisions to Colorado Regulation Number 7:

- Revisions to Sections I through XI, except for Colorado's repeal of Section II.D.
- Revisions to Sections XIII through XVI.

We are proposing to disapprove the following portions of the revisions to Colorado Regulation Number 7:

- Colorado's proposed repeal of Section II.D.
- Revisions to Section XII.

We are proposing to disapprove the revisions to Colorado's Ambient Air Quality Standards Regulation.

The provisions we are proposing to approve meet the requirements of the CAA and our regulations, including 40 CFR 81.300(e)(3)(ii)(D). The provisions we are proposing to disapprove are inconsistent with CAA requirements and our regulations. The specific bases for our proposed actions and our analyses and findings are discussed in this proposed rulemaking. Technical information that we rely upon in this proposal is contained in the State's technical support document (TSD). The TSD is available on-line at *http://www.regulations.gov,* Docket No. EPA–R08–OAR–2010–0285.

III. What is the background of this action?

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm) (62 FR 38855). Ozone is formed from the photochemical reaction of nitrogen oxides (NO_X) with volatile organic compounds (VOCs). Under EPA regulations (40 CFR part 50, Appendix I), the 1997 0.08 ppm 8-hour ozone

NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient ozone concentrations is less than or equal to 0.08 ppm. Forty CFR part 50, Appendix I, section 2.3, directs that the third decimal place of the computed 3-year average be rounded, with values equal to or greater than 0.005 rounding up. Thus, under our regulations, a computed 3-year average ozone concentration of 0.085 ppm is the smallest value that is considered to be greater than 0.08 ppm and a violation of the standard.

On April 30, 2004, we designated areas as attaining or not attaining the 1997 8-hour ozone NAAQS. As part of that rule, we deferred the effective date of a designation as nonattainment for multiple areas of the country, including the DMA/NFR area. These areas, which were called Early Action Compact (EACs) areas, agreed to follow a program to achieve early reduction of emissions necessary to attain the 1997 8-hour standard in order to attain that standard no later than December 31, 2007 (69 FR 23857). Because the DMA/NFR area violated the 1997 8-hour standard during the summer of 2007, the nonattainment designation for the area became effective on November 20, 2007.

Our regulations addressing EAC areas that failed to attain the 1997 8-hour ozone standard by December 31, 2007 (40 CFR § 81.300(e)(3)(ii)(D)) required that Colorado submit an attainment demonstration SIP for the 1997 8-hour standard. Colorado submitted its revised attainment demonstration SIP for the DMA/NFR area on June 18, 2009.

IV. What is EPA's evaluation of the SIP revision?

A. Procedural Requirements

The CAA requires that states meet certain procedural requirements before submitting SIP revisions to EPA. Specifically, section 110(a)(2) of the CAA requires that states adopt SIP revisions after reasonable notice and public hearing.

The Colorado Air Quality Control Commission (AQCC) provided notice in the Colorado Register on October 10, 2008 and held a public hearing on the SIP revision on December 11 and 12, 2008. The Colorado AQCC adopted the SIP revision on December 12, 2008. The SIP revision became State effective on January 30, 2009.[1] Colorado met the CAA's procedural requirements for reasonable notice and public hearing.

B. Monitoring

The monitoring section of the OAP provides information with respect to the location of ozone monitors in Colorado (from southern Metropolitan Denver to northern Fort Collins, including Rocky Mountain National Park); the State's ambient air quality data assurance program; a description and commitment for continued operation of the ozone monitoring network; and relevant 8-hour average ozone monitoring data and recovery rates from 2000 through September 2008.

Ozone monitoring data was collected following 40 CFR part 58; EPA's "Quality Assurance Handbook for Air Pollution Measurement Systems, Vol. II—Ambient Air Quality Monitoring Program"; the Colorado Air Pollution Control Division's (APCD) Quality Management Plan and Quality Assurance Project Plan documents; and Colorado's Federally-approved monitoring SIP (September, 23, 1993, 58 FR 49435).

Data for 2005–2007 and 2006–2008 reflect violations of the 8-hour ozone NAAQS at the Rocky Flats North monitor (values of 0.085 and 0.086 ppm, respectively). Monitoring data are used as a basis for photochemical grid modeling in the attainment demonstration, a process described below. In the OAP, Colorado indicates that it will continue to operate an appropriate air quality monitoring network in accordance with 40 CFR part 58.

C. Emissions Inventories

In the OAP, Colorado presents three different emissions inventories for the DMA/NFR nonattainment area: 2006 base case, 2010 base case, and 2010 control case. The inventories, in tons per summer day, represent emissions estimates for all source categories during a typical summer day when ozone formation is pronounced. The emissions inventories catalog NO_X and VOC emissions because these pollutants are precursors to ozone formation.

The 2006 base case inventory is the "base year" inventory for the attainment demonstration. Base year inventories are developed to help determine the emissions reductions needed to demonstrate attainment of the NAAQS. A base year emissions inventory serves as the starting point for attainment-demonstration air quality modeling and for determining the need for additional SIP control measures.

Using 2006 as the base year emissions inventory ensures that the inventory reflects one of the years used for calculating the design value that resulted in the area's nonattainment designation. The design value is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration (*see* 40 CFR part 50, Appendix D). In Colorado's case, the Denver area was violating the ozone standard during the period of 2005–2007, and, therefore, the nonattainment designation became effective.

The 2010 base case emissions inventory assumes the same federally enforceable control measures that were in place in 2006 and all federally enforceable control measures that became effective after 2006. These control measures are described at pages III–1 through III–3 of the OAP. As described in greater detail below, Colorado was able to demonstrate attainment in 2010 based on the 2010 base case emissions inventory.

The 2010 control case emissions inventory assumes the adoption and implementation of additional control measures beyond the measures assumed for the 2010 base case. These additional control measures are described at page V–10 of the OAP (2008 State-only revisions to Regulation Number 11 that tightened tailpipe standards, 2008 State-only revisions to Regulation Number 7 that required low-bleed devices for pneumatic controllers, an increase in the system-wide reduction of condensate tank VOC emissions from 75% to 81% in 2010, and 7.8 psi RVP gasoline in the NFR area). While Colorado was able to demonstrate attainment without these additional control measures, Colorado modeled the 2010 control case emissions inventory to determine whether additional reductions in ozone precursors (NO_X and VOCs) beyond the 2010 base case would result in further reductions of ozone.

The three emissions inventories discussed above (*i.e.,* 2006 base case emissions inventory, 2010 base case emissions inventory, and the 2010 control case emissions inventory) were developed using EPA-approved guidelines for stationary, mobile, and area/off-road emission sources. Point source emissions data were self-reported to the State by individual sources. On-road mobile source emissions data were estimated using EPA models (MOBILE6) and Vehicle Miles Traveled (VMT) data. Area/off-road vehicle emissions were

[1] State revisions to the SIP do not become federally effective unless and until they are approved by EPA. 40 CFR 51.105.

developed using demographic information. Future emissions were projected through the use of economic growth modeling and analysis. Table 1 shows the emissions by source category, in tons per day (tpd), from the three emission inventories.

TABLE 1—EMISSIONS INVENTORY DATA FOR SPECIFIC SOURCE CATEGORIES

Source Category (tons/avg. episode day)	2006 Base		2010 Base		2010 Control	
	NO_X	VOC	NO_X	VOC	NO_X	VOC
Point Sources:						
Electric Generation Units	55.6	0.7	58.5	1.6	58.5	1.6
External Combustion Boilers	9.5	0.4	10.0	0.5	10.0	0.5
Industrial Processes	12.5	10.2	14.0	11.0	14.0	11.0
Petroleum and Solvent Evaporation	0.3	19.0	0.3	22.0	0.3	22.0
Other	3.1	1.8	3.6	2.0	3.6	2.0
Point Sources Subtotal	81.0	32.1	86.4	37.0	86.4	37.0
Oil and Gas Point & Area Sources:						
Condensate Tanks	.....	126.5	.....	129.6	.....	105.6
Other O&G Point Sources	22.6	6.8	23.6	8.6	23.6	8.6
Pneumatic Devices (Area Source)	.....	24.8	.....	31.1	.....	12.0
Unpermitted Fugitives (Area Sources)	.....	16.2	.....	20.4	.....	20.4
Other Area Sources	17.1	10.8	22.5	13.7	22.5	13.7
O&G Point & Area Sources Subtotal	39.7	185.2	46.2	203.3	46.2	160.1
Area Sources						
Personal Care Products	.....	7.1	.....	7.0	.....	7.0
Household Products	.....	21.4	.....	17.9	.....	17.9
Automotive Aftermarket Products	.....	11.9	.....	13.0	.....	13.0
Architectural Coatings	.....	20.1	.....	16.8	.....	16.8
Aircraft	7.4	1.3	8.2	1.5	8.2	1.5
Railroad	12.8	0.5	13.8	0.6	13.8	0.6
Other Coatings/Pesticides/Cooking/Misc	.....	3.9	.....	4.1	.....	4.1
Area Source Subtotal	20.2	66.3	22.1	61.0	22.1	61.0
Non-Road Mobile Sources:						
Agricultural Equipment	7.0	0.9	6.3	0.7	6.3	0.7
Airport Equipment	0.7	0.1	0.6	0.1	0.6	0.1
Commercial Equipment	5.3	6.2	5.1	7.0	5.1	7.0
Construction and Mining Equipment	35.7	5.5	31.2	4.5	31.2	4.5
Industrial Equipment	10.5	2.4	6.9	1.4	6.9	1.4
Lawn and Garden Equip. (Commercial)	9.4	35.9	8.9	28.1	8.9	28.1
Lawn and Garden Equip. (Residential)	1.2	7.5	1.2	11.8	1.2	11.8
Boats/Recreational Equip/Misc	0.7	6.9	0.8	7.8	0.8	7.8
Non-Road Mobile Source Subtotal	70.5	65.3	61.0	61.3	61.0	61.3
On-Road Mobile Sources Subtotal	165.5	129.7	122.9	109.2	118.9	106.0
Anthropogenic Subtotal	376.8	478.6	338.5	471.8	334.6	425.4
Biogenic Subtotal	53.0	694.0	53.0	694.0	53.0	694.0
Total	429.8	1172.6	391.5	1165.8	387.6	1119.4

Colorado employed EPA guidelines for rule effectiveness when preparing these emission inventories. Rule effectiveness, expressed as a percentage, represents the ability of a regulatory program to control point sources to achieve emissions reductions. Based on control strategies for the oil and gas source category, Colorado used 83 percent for rule effectiveness. A rule effectiveness of 83 percent discounts the emissions reductions from the control measures by 17 percent. Based on Colorado's analysis, which considered compliance rates with existing control measures, EPA finds that a value of 83 percent is reasonable for rule effectiveness for oil and gas control measures. For further detail regarding Colorado's analysis, the reader should refer to Colorado's TSD.

For oil and gas point and area sources, the 2010 control case inventory reflects a 43.2 tpd reduction in VOC emissions as compared to the 2010 base case inventory. For on-road mobile sources, the 2010 control case inventory reflects a 3.2 tpd reduction in VOC emissions as compared to the 2010 base case inventory.

D. Photochemical Grid Modeling

Colorado conducted photochemical grid modeling (hereafter referred to as "modeling") to demonstrate that the emissions control strategy leads to attainment of the NAAQS by 2010. The modeling followed EPA's photochemical modeling guidance (Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for

Ozone, PM2.5, and Regional Haze, EPA–454/B–07–002, April 2007).

The attainment demonstration modeling utilized the Comprehensive Air-quality Model with extensions (CAMx), Sparse Matrix Operating Kernel Emissions (SMOKE) system, and Mesoscale Model 5 (MM5). Colorado applied these models to data from June 2006 and July 2006. These models were set up using a nested 36/12/4 kilometer (km) domain structure. The 36 km domain covering most of North America was used to generate boundary conditions (BCs) for the 12 km modeling domain. CAMx was then used to simulate ozone formation within the 12/4 km modeling domain. The CAMx simulation, sensitivity, and control strategy evaluations runs were made on the 12/4 km modeling domain.

EPA guidance recommends that model performance be tested against certain performance goals. Model performance testing is used to determine the model's reliability in projecting future year ozone concentrations. Using meteorological and emissions data from a historical base period, ozone concentrations predicted by the model are compared to monitored ozone concentrations to determine model performance.

EPA's modeling guidance emphasizes the use of graphical and diagnostic evaluation techniques to assure that the modeling captures the correct chemical regimes and emission sources that result in high ozone concentrations (*i.e.,* assuring that the model is getting the right answer for the right reason). Colorado's model performance evaluation included such graphical and diagnostic evaluation techniques. In addition, EPA modeling guidance includes three numerical performance goals that are useful in evaluating ozone models as part of the attainment demonstration. These include: unpaired accuracy of the peak ≤±20%; normalized mean bias ≤±15%; and normalized mean gross error ≤35%.

Using a June 1 through July 30, 2006 episode period, Colorado calculated the mean normalized bias and gross error statistical measures using all the predicted and observed hourly ozone pairs, matched by time and location, for which the observed ozone was equal to or greater than 0.060 ppm. The evaluation showed that the modeling achieved the "Unpaired Accuracy of the Peak" performance goal of ≤±20% for 58 of the 60 simulation days of the episode (*i.e.,* 97% of the modeled days). There were 58 days rather than 60 with bias and error comparisons during the episode period because two days had no observed ozone values greater than 0.060 ppm; thus, no statistics could be calculated for those two days. Of the 58 days, 50 days (or 86%) achieved EPA's ≤±15% performance for mean normalized bias and all of them achieved EPA's performance goal for mean normalized gross error.

The CAMx model also exhibited very good agreement for VOC/NO_X ratios on most days, indicating that the model was simulating the correct chemical regimes. The performance of the CAMx model in predicting ozone concentrations, and precursor concentrations, met EPA's guidelines for model performance. The model outputs were consistent with the day-to-day patterns of observed data, with low bias and error. EPA concurs with Colorado's assessment that the model was properly set up, met EPA performance requirements, and was appropriately used in its application.

E. Modeled Attainment Demonstration

The modeled attainment demonstration for ozone is one in which model estimates are used in a relative sense rather than absolute sense. That is, we take the ratio of the model's future (2010) to current (2006) predictions at ozone monitors in the DMA/NFR area. We call these ratios "Relative Response Factors" (RRFs). Future ozone concentrations are estimated at existing monitoring sites by multiplying a modeled RRF at locations near each monitor by the observation-based, monitor-specific, baseline design value. The resulting predicted future concentrations are then compared with the 1997 0.08 ppm 8-hour ozone NAAQS. If the predicted future concentrations of ozone are lower than 0.08 ppm at all monitors, attainment is demonstrated. The test for ozone is based on the calculation of a single mean ozone RRF for each monitor.

Table 2, below, summarizes the estimated concentrations within the Colorado 4 km grid domain for Colorado's 2006 base case, 2010 base case, and final 2010 control measure case modeling. The final 2010 control measure case is not the same as the 2010 control case discussed in section III.C of this action, above. Unlike the 2010 control case, the final 2010 control measure case does not include emission reductions from State-only measures. Also, at the time Colorado prepared the 2010 control case inventory, the AQCC had not yet adopted final changes to Regulation Number 7. The final changes included greater system-wide condensate tank VOC reductions in 2010—85% instead of 81%—and additional control requirements. Colorado used the final adopted version of Regulation Number 7 to create a final 2010 control measure case inventory and then modeled that inventory. For further details, see page V–7 of the OAP and Appendix I of Colorado's TSD.

Table 2, below, displays three scenarios: (1) 2005–2007 8-hour ozone concentration Current Design Values (DVC); (2) projected 2010 base case 8-hour ozone concentration Future Design Values (DVF); and (3) final 2010 control measure case 8-hour ozone concentration DVFs. Per EPA guidance, the first set of DVFs in Table 2 (columns 4 and 5) are shown in ppm to the third decimal place, with additional digits to the right truncated, for comparison with the NAAQS. (See 40 CFR part 51, Appendix W, section 7.2.1.2, 40 CFR part 50, Appendix I, section 2.1.1, and Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone, PM2.5, and Regional Haze, EPA–454/B–07–002, April 2007.) The last set of DVFs (columns 6 and 7) are displayed to the nearest .0001 of a ppm. Although not relevant to determining attainment of the NAAQS, Colorado included these last columns as part of its evaluation of model performance, to attempt to distinguish any differences in the ozone projections between the 2010 base case and final 2010 control measure modeling and as part of its weight of evidence analysis.

The maximum projected 8-hour ozone design value for the 2010 base case and final 2010 control measure case is 0.084 ppm at the Rocky Flats North and Fort Collins West monitoring sites. Because all projected 2010 8-hour ozone design values are below 0.085 ppm, the 2010 base case and final 2010 control measure case both pass the modeled ozone attainment demonstration test. However, because there are four monitoring sites with projected 2010 DVFs of 0.082 ppm or higher (0.084 ppm at Rocky Flats North and Fort Collins West, 0.083 ppm at Chatfield, and 0.082 ppm at NREL), EPA's modeling guidance indicates a "weight of evidence" (WOE) analysis should be performed.

TABLE 2—PROJECTED 2010 8-HOUR OZONE DVFS FOR THE 2010 BASE CASE AND FINAL 2010 CONTROL MEASURE CASE

Monitor name	County	DVC (2005–2007) (ppm)	2010 DVF (EPA Guidance) (ppm)		2010 DVF (nearest 0.0001 ppm)	
			Base case	Final control measure case	Base case	Final control measure case
Welby	Adams	0.070	0.070	0.070	0.0702	0.0702
Highland	Arapahoe	0.078	0.077	0.077	0.0773	0.0773
S. Boulder Creek	Boulder	0.081	0.080	0.080	0.0808	0.0807
Denver-CAMP	Denver	0.056	0.056	0.056	0.0560	0.0560
Carriage	Denver	0.074	0.074	0.074	0.0741	0.0741
Chatfield State Park	Douglas	0.084	0.083	0.083	0.0834	0.0834
USAF Academy	El Paso	0.073	0.072	0.072	0.0720	0.0720
Manitou Springs	El Paso	0.074	0.073	0.073	0.0737	0.0737
Arvada	Jefferson	0.079	0.079	0.079	0.0792	0.0791
Welch	Jefferson	0.075	0.075	0.075	0.0750	0.0750
Rocky Flats North	Jefferson	0.085	0.084	0.084	0.0849	0.0849
NREL	Jefferson	0.082	0.082	0.082	0.0823	0.0822
Fort Collins West—**Note:** DVC based on two years of measured data.	Larimer	0.086	0.084	0.084	0.0849	0.0848
Fort Collins	Larimer	0.074	0.073	0.073	0.0730	0.0730
Greeley Weld Tower	Weld	0.078	0.077	0.077	0.0777	0.0775
Gunnison	Gunnison	0.068	0.067	0.067	0.0678	0.0678
Larimer	Larimer	0.076	0.075	0.075	0.0752	0.0752

For values that Colorado reported to the nearest 0.0001 of a ppm, the maximum projected DVF for the 2010 Base Case is 0.0849 ppm at both the Rocky Flats North and Fort Collins West monitoring sites (*see* Table 2). According to Colorado's modeling, Colorado's final 2010 control measures would reduce the DVF at the Fort Collins West monitoring site by 0.0001 ppm (to 0.0848 ppm) and would have no effect at the Rocky Flats North monitoring site (0.0849 ppm). Overall, Colorado's modeling projected that Colorado's final 2010 control measures would reduce the 2010 DVF by 0.0001 ppm at four sites and by 0.0002 ppm at one site, with the remainder of the monitoring sites having identical DVFs for the 2010 base case and final 2010 control measure case. The largest ozone reduction due to Colorado's final 2010 control measures (0.0002 ppm) was projected to occur at the Weld County Tower monitoring site (Greeley), which is expected given the proximity of the monitor to the oil and gas developments in Weld County. Weld County is where the largest VOC emission reductions would occur due to Colorado's final 2010 control measures for condensate storage tanks. These results are consistent with Colorado's 2010 sensitivity modeling, which found that proposed oil and gas emission controls would have a bigger impact on ozone concentrations at Fort Collins West than Rocky Flats North.

Based on our analysis, we are proposing approval of Colorado's modeled attainment demonstration. Both the 2010 base case modeling and the final 2010 control measure case modeling show that the DMA/NFR area will attain the 8-hour ozone NAAQS by 2010. However, because we are proposing to disapprove Colorado's revisions to Regulation Number 7, Section XII, which Colorado relied on in its final 2010 control measure modeling, our proposed approval of Colorado's attainment demonstration is based on the 2010 base case modeling.

Because Colorado's modeling demonstrates attainment in 2010 based on existing SIP-approved measures, and it is now 2010, such SIP-approved measures represent all measures necessary to demonstrate attainment as expeditiously as practicable as per section 172 of the CAA. Additional control measures would not advance the attainment date.

F. Weight of Evidence

As noted above, since four monitors (Rocky Flats North, Fort Collins West, Chatfield, and NREL) modeled concentrations that fall into the range of 0.082 to 0.087 ppm, a weight of evidence (WOE) analysis is recommended by EPA (see "Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone, PM2.5, and Regional Haze," EPA–454/B–07–002, April 2007). A WOE analysis involves one or more supplemental analyses to enhance the assessment of whether the planned emissions reductions will result in attainment of the 1997 0.08 ppm 8-hour ozone NAAQS. The WOE analysis includes: Monitoring and emission inventory trend analysis; review of the conceptual model for ozone formation along the North Front Range; additional modeling metrics; alternative attainment test methods; and assessment of the efficacy of Colorado's SIP-approved regulations, state-only regulations, and voluntary control measures. The WOE analysis is then used to determine if the four monitors that modeled ozone concentrations in the range of 0.082 to 0.087 ppm are expected to demonstrate attainment of the NAAQS.

Our review of the WOE analysis identified a number of key points that provide further evidence that the modeling is reliable and that the DMA/NFR area will attain the NAAQS. First, although individual concentrations have been highly variable, the aggregate trend in weather-corrected 4th maximum time series suggests ozone levels have been flat from 2004 through 2008. The WOE analysis suggests that ozone levels are not trending upward in the DMA/NFR and that the modeling conclusions are reasonable. Second, the WOE analysis of the weekend-weekday effect [2] related to potential disbenefits from NO_X reductions shows a stronger effect in the DMA and a weaker effect in outlying areas. This spatial pattern is consistent with the localized NO_X disbenefit predicted by the photochemical grid modeling; thus, this aspect of the WOE

[2] Some urban areas show higher ozone levels on weekends. Some studies indicate that this increase in ozone concentrations may result from decreased weekend NO_X emissions due to fewer trucks on the road and differences in the distribution of emissions. Under certain conditions, NO_X acts to reduce ozone concentrations.

analysis supports the validity of the modeling. Third, within the DMA, potential increases in ozone concentrations due to NO_X emissions reductions from the federal motor vehicle control program do not appear significant and should not threaten the NAAQS. At monitoring locations outside the DMA, the WOE analysis suggests that reductions in NO_X emissions will reduce ozone, possibly with greater efficiency than VOC reductions. Fourth, the WOE analysis includes other modeled metrics that indicate reductions by 2010 in total ozone, grid cells over 0.080 and 0.085 ppm 8-hour ozone, and grid cell-hours over 0.080 and 0.085 ppm ozone based on the various control scenarios. For example, these metrics indicate a reduction in total ozone and grid cells greater than 0.085 ppm between the 2006 and 2010 base cases of 21% and 14%, respectively. This suggests that the changes in emissions between the 2006 and 2010 base cases will reduce or have reduced ozone concentrations.

EPA finds the WOE analysis provides further support to the photochemical grid modeling, and the modeling and WOE support a determination that the area will attain the 1997 0.08 ppm 8-hour ozone NAAQS by 2010.

G. Specific OAP Language

We are proposing to disapprove the last paragraph on page IV–1 and the first paragraph on page IV–2 of the OAP because these paragraphs indicate that the OAP revises Section XII of Regulation Number 7 as part of the SIP. We are proposing to disapprove revised Section XII of Regulation Number 7, and approval of this language in the OAP would potentially conflict with our proposed disapproval of revised Section XII. We are proposing to disapprove the words "federally enforceable" in the second to last paragraph on page V–6 of the OAP for the same reason. The language in question reads, "AQCC action on December 12, 2008 adopted a federally enforceable SIP control measure revising Regulation No. 7 * * *" Only our approval can make the revisions federally enforceable.

Elsewhere, the OAP discusses "adopted SIP control measures" or provisions that will be part of the SIP. We interpret these various references as reflecting the AQCC's intent to submit the referenced regulations to us for approval and not as an indication that they are already part of the federally approved SIP or that our approval of the OAP alone will make the referenced regulations part of the federally approved SIP. We are acting on the referenced regulations as separate elements.

We are also proposing to disapprove the reference to Attachment A in the OAP's Table of Contents and on page IV–3 of the OAP because Attachment A was not submitted to us with the OAP and because the revisions referenced as being included in that Attachment A (revisions to Regulation Number 7, Regulation Number 3, and the Ambient Standards Regulation) were submitted to us separately for our action. As noted, we are acting on the revisions to those regulations as separate elements in this action.

H. SIP Control Measures

Colorado Regulation Number 3

Colorado submitted revisions to Regulation Number 3, Parts A, B, and C, along with the OAP. Among other things, Part A requires stationary sources to submit Air Pollutant Emission Notices (APENs) to Colorado before emitting pollutants. A source's APEN must include information about location and nature of the source and expected emissions. Part A also contains various exemptions from APEN filing. Colorado's proposed revisions to Part A would remove several of these exemptions from the regulation. This would subject the specified source categories to APEN filing and potential regulation under Regulation Number 7, which uses the APEN-filing threshold in Regulation Number 3, Part A, as the trigger for applicability of various requirements.

Regulation Number 3, Part B, contains construction permit requirements for stationary sources. Part B also contains various exemptions from minor source construction permit requirements. Part B contains a generic exemption for sources that are not required to file an APEN. Colorado recognized that its proposed removal of the APEN-filing exemption for certain sources under Part A would also have the effect of subjecting those sources to minor source construction permit requirements under Part B. For four types of sources, Colorado determined that this would not be appropriate and adopted a revision to Part B that would continue to exempt these four types of sources from minor source construction permitting. The premise behind all the minor source construction permitting exemptions in Part B is that the emissions from the specified sources are deemed to have a negligible impact on air quality.

Regulation Number 3, Part C, contains Colorado's operating permit requirements. Colorado submitted proposed revisions to Part C that remove certain oil and gas activities from Part C's insignificant activity exemption.

For the reasons discussed below, we are proposing to approve Parts A and B.

The proposed revisions to Regulation Number 3, Part A, eliminate provisions that exempt the following specific types of oil and gas-related emission points from the APEN requirements: Petroleum industry flares with emissions of less than 5 tons per year, specified crude oil truck loading equipment, oil and gas production wastewater, crude oil storage tanks, surface water storage impoundments for certain oil production wastewater, and condensate storage tanks where production through the tank amounts to less than 730 barrels per year. The elimination of these exemptions means that the facility will need to file APENs with the State, which should allow Colorado to collect more accurate inventory information regarding emissions related to oil and gas operations. This would also subject the specified source categories to the condensate storage tank VOC control requirements of Regulation Number 7, Section XII, which uses the APEN-filing threshold in Regulation Number 3, Part A, as an applicability threshold.

The proposed revisions to Regulation Number 3, Part B maintain an existing exemption from minor source construction permitting requirements for certain emission points. The emission points consist of certain petroleum industry flares with emissions less than 5 tons per year, crude oil truck loading equipment and condensate truck loading equipment, oil and gas production wastewater, and crude oil storage tanks. As noted above, under the current SIP-approved version of Regulation Number 3, Part B, any emission points exempt from filing APENs are also exempt from minor source construction permit requirements. See Regulation Number 3, Part B, Section III.D.1.a, as contained in the EPA-approved SIP at *https://yosemite.epa.gov/R8/R8Sips.nsf/e5e850cc767bc8b3872573a9004cad73/75c2d810353a706a87256b7b0066624d?OpenDocument.* Thus, approval of Colorado's proposed revisions to Part B would not change the status quo with regard to construction permitting requirements for these emission points.

The revisions to Parts A and B make the SIP more stringent by subjecting additional emission sources to reporting requirements. We are proposing to approve these revisions because they strengthen the SIP.

Regarding Part B of Regulation Number 3, we note that there is a discrepancy between the numbering of

the submitted revisions and the EPA-approved SIP. Colorado added new Sections II.D.1.k, l, m, and n to Part B to specify the four types of emissions points that will continue to be exempt from minor source construction permitting requirements. However, in the current EPA-approved SIP, Section III.D.1 of Part B lists the types of emissions points that are exempt from minor source construction permitting requirements.[3] These emissions points are listed in Sections III.D.1.a through j. For purposes of this action, we are interpreting Colorado's proposed revisions to Part B, in the form of Sections II.D.1.k through n, as being an addition to Section III.D.1, and following immediately after Section III.D.1.j of Part B of the EPA-approved SIP. As part of our final rulemaking action, we will craft appropriate regulatory language to effectuate our interpretation.

EPA is proposing to disapprove Colorado's proposed revisions to Regulation Number 3, Part C. As noted above, Regulation Number 3, Part C, contains Colorado's operating permit regulations, which we do not approve into the SIP. Instead, we approve operating permit regulations under our operating permit regulations at 40 CFR part 70. Thus, we intend to consider approval of Colorado's proposed Part C revisions pursuant to our part 70 regulations at such time as Colorado submits an appropriate request under 40 CFR 70.4(i). The revisions are meaningless absent their regulatory context, and that regulatory context is not part of the EPA-approved SIP and is not incorporated by reference into 40 CFR part 52. Instead, the approval status of Colorado's part 70 program is reflected in 40 CFR part 70, Appendix A. Thus, because we are obligated to act on the State's SIP submission, we plan to disapprove these revisions as a revision to the SIP. If the State requests to withdraw Part C from the SIP revision prior to the time we take final action, we would not be obligated to take final action because Part C would no longer be pending before the Agency as a SIP revision. Additionally, if requested by the State, we will separately consider these revisions as a revision to the approved operating permit program for the State.

Colorado Regulation Number 7

Regulation Number 7 contains various requirements intended to reduce emissions of ozone precursors. These are in the form of specific emission limits applicable to various industries and generic Reasonably Available Control Technology (RACT) requirements. EPA approved the repeal and re-promulgation of Regulation Number 7 in 1981 (46 FR 16687, March 13, 1981) and has approved various revisions to parts of Regulation Number 7 over the years. Most recently, in 2008 EPA approved revisions to the control requirements for condensate storage tanks in Section XII (73 FR 8194, February 13, 2008).

Colorado submitted proposed revisions to Regulation Number 7 along with the OAP. On November 18, 2009, Colorado corrected the version of Regulation Number 7 it had submitted to reposition the words "State Only" in various sections of Regulation Number 7.

Colorado made substantive revisions to certain limited parts of Regulation Number 7, particularly Section XII, and also made non-substantive revisions to numerous parts of the regulation. For ease of consideration, Colorado submitted the full text of Regulation Number 7 as a SIP revision for our approval (with the exception of provisions designated "State Only"). We are only seeking comment on Colorado's proposed changes to the SIP-approved version of Regulation Number 7, which are described below; we do not view this rulemaking as re-opening our past approval of the portions of the regulation that were not substantively modified by the State as part of this submission.

As noted above, Colorado designated various parts of Regulation Number 7 "State Only" and in Section I.A.1.c indicated that sections designated "State Only" are not federally enforceable. Our interpretation is that provisions designated "State Only" have not been submitted to us for approval since one of the key purposes of a SIP approval is to make the submitted regulations federally enforceable. Instead, we interpret these provisions to have been submitted for informational purposes. Hence, we are not proposing to act on the portions of Regulation Number 7 designated "State Only" and do not discuss them further unless they impact the portions of the regulation that Colorado intended to be federally enforceable.

Analysis of Regulation Number 7 Changes by Section

Section I:

Section I contains applicability provisions, definitions of new and existing sources, and related provisions. Except for minor clerical changes,[4] this section remains unchanged from the current SIP-approved version. Thus, we are proposing to approve the changes to conform the SIP to Colorado's regulation.

Section II:

Section II contains general provisions. Section II.A contains definitions. The State alphabetized the definitions Otherwise, the definitions are unchanged. The State made minor clerical changes to Section II.B, which contains an exemption for emissions of organic compounds having negligible photochemical reactivity. The State made minor clerical changes to Section II.C, which contains generic RACT requirements.

Section II as submitted reflects Colorado's repeal of Sections II.E and F. Colorado had previously submitted Sections II.E and F to us for approval, but we never acted on them. Section II.E would have allowed Colorado to approve alternative emission control plans, compliance methods, test methods, and test procedures without EPA approval of a source-specific SIP revision. However, subsequent to submitting Section II.E to us, Colorado repealed it (in November 2003). Section II.F would have allowed Gates Rubber Company to satisfy VOC RACT requirements in Regulation Number 7 related to surface coating operations by obtaining emission reduction credits from Coors Brewing Company. Gates Rubber Company stopped operating a few years ago, and Colorado repealed Section II.F as part of its December 12, 2008 rulemaking.

We are proposing to approve the changes to Sections II.A, B, and C as minor, non-substantive revisions. Because section II.E and F were never approved as part of the SIP, the State repeal of those provisions has no meaning for this action. However, we are proposing to approve the language of Regulation Number 7 that reflects the repeal of II.E and F to conform the SIP to the numbering of Colorado's regulation.

In addition to the changes noted above, the submitted revision to Section II reflects Colorado's repeal of Section II.D.[5] The SIP-approved version of

[3] Colorado previously submitted revisions to Part B that contain changes to the numbering of Part B provisions; we will be acting on those revisions separately.

[4] When we describe changes as clerical in this proposed action, we are referring to changes like section renumbering, alphabetizing of definitions, minor grammatical and editorial revisions, and changes in capitalization.

[5] In March of 1996, Colorado adopted changes to Section II.D as a matter of State law and submitted the revisions to us for approval. The revisions were part of an effort by Colorado at that time to establish a de minimis exemption from Regulation Number 7's RACT requirements. EPA never approved

Continued

Section II.D requires sources to seek a revision to the SIP to gain approval of alternative control plans and test methods and indicates that no alternative is effective until the alternative is approved as a revision to the SIP. Colorado originally adopted Section II.D in September 1989 to address specific EPA concerns that Colorado's RACT rule would allow changes to control requirements or test methods without EPA approval.

We are proposing to disapprove the repeal of Section II.D for the following reasons: (1) A court might interpret the repeal to allow the State to approve alternative control requirements and test methods without EPA approval, and without public involvement, which could undermine the enforceability of Regulation Number 7's RACT requirements and would be inconsistent with the CAA, particularly section 110(i); (2) the State has offered no explanation or justification for the repeal; and (3) other sections of Regulation Number 7 still cross-reference Section II.D as specifying necessary procedures for gaining approval of alternative control requirements and test methods (See, e.g., Section IX.A.5.c of Regulation Number 7), and, therefore, removing Section II.D would introduce ambiguity into the Regulation.

Our proposed disapproval of the repeal of Section II.D does not undermine the validity of the attainment demonstration. Rather, it strengthens it by ensuring that EPA and public review will be required before a source may use an alternative control requirement or test method. Such review will help ensure that any such alternative would not interfere with the effectiveness of the program as relied on for purposes of demonstrating attainment. Although we are proposing to disapprove the repeal of Section II.D, our disapproval would not trigger sanctions or a FIP obligation. This is because the repeal of Section II.D is not required by the CAA (see CAA section 179), and our disapproval of the repeal of Section II.D would not leave a deficiency in the SIP. Section II.D will remain in the SIP after disapproval of Colorado's proposed repeal, and it will be incumbent on sources and the State to comply with Section II.D's requirements. Thus, there would be nothing for the State to correct through a SIP revision and nothing for us to correct through a FIP.

Sections III through XI:

The changes are clerical in nature and do not affect the substance of the requirements. Therefore, we are proposing to approve the changes.

Section XII:

Section XII contains the emission control requirements for condensate storage tanks. The State reorganized Section XII and included additional control requirements for condensate tanks. The following table outlines the reorganization/renumbering contained in Colorado's proposed revisions to Section XII:

Colorado revised section XII section number	Corresponding EPA-approved section XII section number	Subject
XII.A	XII.A	Applicability.
XII.A.1	XII.A.1	Applicability.
XII.A.1.a through c	XII.A.1.a through c	Applicability.
XII.A.1.d	None	Applicability.
XII.A.2	XII.D.4	Exception to applicability for oil refineries.
XII.A.3	None	Applicability for natural gas processing plants and certain natural gas compressor stations. Indicates they are subject to Section XII.G.
XII.A.4	None	Applicability for certain glycol natural gas dehydrators, natural gas compressor stations, drip stations, or gas processing plants. Indicates they are only subject to XII.B and XII.H.
XII.A.5	XII.A.8	Exception to applicability based on uncontrolled actual VOC emissions threshold of 30 tons per year.
XII.B.1, 2, 3, 9, 12, and 14	XII.D.1; XII.D.5 through 9	Definitions of various terms.
XII.B.4, 5, 6, 7, 8, 10, 11, and 13	None	Definitions of various terms. XII.B.13 contains a State-only definition.
XII.C.1.a	XII.D.2.a	General requirements for operation/maintenance of control equipment.
XII.C.1.b	XII.D.2.b	General requirement to minimize leakage VOCs.
XII.C.1.c	XII.A.7 and XII.A.4.h	Air pollution control equipment control efficiency. Failure to operate and maintain control equipment at indicated locations is a violation.
XII.C.1.d	XII.D.2.c	Requirements for combustion devices.
XII.C.1.e and f	None	State-only requirements related to combustion devices.
XII.C.2 and XII.C.2.a	XII.D.3	Emission factors for emission estimates.
XII.C.2.b	None	State-only. Emission factors for emission estimates in areas other than the 8-hour ozone control area (DMA/NFR non-attainment area).
XII.D	XII.A.2	Emission control requirements for condensate tanks.
XII.D.1	None	Control requirement for new and modified condensate tanks.
XII.D.2.a(i) through (x)	XII.A.2.a through h	System-wide control requirements for condensate storage tanks.
XII.D.2.b	XII.A.9	Alternative emission control equipment.
XII.E	XII.A.3	Monitoring.
XII*.E*.1	None	Requirements for control equipment other than a combustion device.
XII*.E*.2	None	State only requirement related to new and modified tanks controlled by a combustion device.

Colorado's 1996 changes to Section II.D. Based on EPA's indication that it intended to disapprove Colorado's 1996 changes to Section II.D, Colorado repealed Section II.D entirely in November 2003. Colorado did not re-adopt the pre-1996 version of Section II.D, and the version of Regulation Number 7 that we are considering in this action indicates that Section II.D has been repealed.

Colorado revised section XII section number	Corresponding EPA-approved section XII section number	Subject
XII*.E*.3., XII*.E*.3.a and b	XII.A.3.a and b	Checks for combustion devices.
XII*.E*.4	XII.A.4.j	Documentation of inspections.
XII*.E*.4.a–d	XII.A.3.c–f	Requirements for the weekly check.
XII*.E*.5	None	State-only requirements for surveillance systems.
XII.F	XII.A.4 and XII.A.5	Recordkeeping and reporting requirements.
XII.F.1 and 2	XII.A.10 and 11	Marking of AIRS numbers on tanks.
XII.F.3	XII.A.4	Introductory language for recordkeeping.
XII.F.3.a(i)	XII.A.4.a	List of tanks and production volumes.
XII.F.3.a(ii) and (iii)	XII.A.4.b and c	Listing of emission factors and location and control efficiencies.
XII.F.3.a(iv)	XII.A.4.d.i	List weekly and monthly production values. Describes how to determine the averages.
XII.F.3.a(v)–(vii)	XII.A.4.d.ii–iv	List weekly and monthly uncontrolled actual and controlled actual emissions by tank and system-wide. List percent reductions weekly and monthly.
XII.F.3.a(viii)	XII.A.4.e	Note any downtime and account for it.
XII.F.3.a(ix)–(x)	XII.A.4.f–g	Maintaining and mailing of spreadsheet.
XII.F.3.b–d	XII.A.4.h–j	Failure to have control equipment as indicated on spread sheet is violation. Retain spread sheets for five years. Maintain records of inspections.
XII.F.3.e	None	State only. Maintain records of required surveillance system.
XII.F.3.f	None	State only. Keep records for new and modified tanks—when installed, etc.
XII.F.4	XII.A.5	Reporting for system-wide requirements.
XII.F.4.a	XII.A.5.a	List tanks and production volumes.
XII.F.4.b–c	XII.A.5.b–c	List emission factor and location and control efficiency.
XII.F.4.d	XII.A.5.d	What different reports must show based on time of year. Emissions individual tanks.
XII.F.4.e	XII.A.5.e	What different reports must show based on time of year. Emissions system-wide.
XII.F.4.f	XII.A.5.f	What different reports must show based on time of year. Percent reduction system-wide.
XII.F.4.g	XII.A.5.g	Note shutdown of control equipment and account for same in totals.
XII.F.4.h	XII.A.5.h	State whether required reductions were achieved.
XII.F.4.i	XII.A.5.i	Include any information requested by the Division.
XII.F.4.j	XII.A.5.j	Retention period.
XII.F.4.k	XII.A.5.k	Additional reporting, monthly reporting of problems and corrective actions.
XII.F.4.l	XII.A.5.l	Identify before ozone season tanks being controlled to meet system-wide control requirements.
XII.F.4.m–n	None	State-only additional requirements for certifications.
XII.F.5	XII.A.6	Exemption from record-keeping and reporting requirements for natural gas compressor stations and drip stations authorized to operate pursuant to a construction or operating permit.
XII.G	XII.B	Requirements for gas processing plants. Introductory statement.
XII.G.1	XII.B.1	Part 60 leak detection applies.
XII.G.2	XII.B.2	Applicability of control equipment.
XII.G.3	XII.B.3	Compliance date for existing plants.
XII.G.4	XII.B.4	Compliance date for new plants.
XII.G.5	None	New exemption for natural gas compressor stations and drip stations if certain conditions are met.
XII.G.6	None	Says that natural gas compressor station or natural gas drip station that has a glycol natural gas dehydrator and/or natural gas-fired stationary or portable engine is subject to Section XII.H and/or XVI.
XII.H	XII.C	Requirements that apply to vents from gas-condensate-glycol separators on glycol natural gas dehydrators at an oil and gas exploration and production operation, natural gas compressor station, drip station or gas-processing plant.

The main feature of Section XII remains the requirement for system-wide reductions in condensate storage tank VOC emissions. The current EPA-approved Section XII requires that uncontrolled actual condensate tank VOC emissions in the DMA/NFR area be reduced on a weekly basis during the summer ozone season by 75% system-wide beginning May 1, 2007, and 78% beginning May 1, 2012. Revised Section XII (Section XII.D.2) requires an 81% system-wide reduction in uncontrolled actual weekly condensate tank VOC emissions during the summer ozone season beginning May 1, 2009, an 85% reduction beginning May 1, 2010, and a 90% reduction beginning May 1, 2011. Also, most of the definitions and monitoring, recordkeeping, and reporting requirements in Section XII are unchanged. However, because of deficiencies in Colorado's proposed revisions to Section XII, we cannot

approve revised Section XII. Below, we describe in detail Colorado's proposed revisions to Section XII and the basis for our proposed disapproval of such revisions.

As noted above, Colorado was able to demonstrate attainment using the 2010 base case inventory. This inventory assumed the continuation of Section XII requirements as contained in the current EPA-approved SIP, and no new SIP control measures. Thus, disapproval of Colorado's proposed Section XII revisions would not invalidate the attainment demonstration and, thus, would not trigger sanctions or a FIP obligation.

Analysis of Specific Section XII Revisions

Section XII.A.

Section XII.A defines the applicability of Section XII requirements and is consistent with the current EPA-approved applicability provisions in Section XII.

Section XII.B.

Section XII.B contains definitions specific to Section XII. The substance of the definitions contained in Sections XII.B.1, 2, 3, 9, 12, and 14 is unchanged from the definitions contained in SIP-approved Sections XII.D.1 and XII.D.5 through 9. The other definitions in revised Section XII.B define the following terms that are used in Section XII: auto-igniter, calendar week, condensate storage tank, downtime, existing, modified or modification, and new. The definitions are clear, straightforward, and accurate. The definitions of auto-igniter and existing are only pertinent to State-only provisions and thus have no meaning for our SIP action.

Section XII.C.1.

Section XII.C.1 contains general requirements for air pollution control equipment and prevention of leakage. Colorado did not change the substance of the corresponding EPA-approved provisions.

Section XII.C.2.

Section XII.C.2 describes the emission factors to be used for estimating emissions and emissions reductions from condensate storage tanks under Section XII. Colorado made one change to the substance of the corresponding EPA-approved provisions: In the current EPA-approved SIP (Sections XII.D.3.b and 3.b.i), the emission factors to be used are specified for condensate storage tanks at natural gas compressor stations, natural gas drip stations, and gas-condensate-glycol separators. In revised Sections XII.C.2.a.(ii) and a.(ii)(A), Colorado deleted the reference to gas-condensate-glycol separators. Revised Section XII.H still requires a 90 percent reduction in emissions at certain gas-condensate-glycol separators, and Colorado has not explained why an emission factor specified or determined under Section XII.C.2 will not be needed to determine compliance with Section XII.H. We believe an emission factor will be needed to ensure that the reduction requirement in Section XII.H can be enforced. Thus, this is a deficiency in revised Section XII that forms part of the basis for our proposed disapproval of

Section XII.D.

Section XII.D contains an introductory statement regarding the control requirements for atmospheric condensate storage tanks. The changes to current SIP-approved Section XII.A.2 are minor. While the statement that "[e]mission reductions shall not be required for each and every unit" is misleading because the control requirement in revised Section XII.D.1 for new and modified condensate tanks applies to every tank, this misstatement would not undermine the enforceability of the requirements in Section XII.D.1. However, Colorado should correct this statement.

Section XII.D.1.

Section XII.D.1 requires owners or operators of any new or modified condensate tank at exploration and production sites to route emissions to air pollution control equipment that has a control efficiency of at least 95% for VOCs. This requirement applies for the first 90 days after the date of first production or after a well is newly drilled, re-completed, re-fractured, or otherwise stimulated. After the initial 90 days, the emission controls required by this subsection may be removed provided the source can demonstrate compliance with the system-wide provisions specified in other subsections of section XII. This new requirement would strengthen the SIP.

Section XII.D.2.a.

Section XII.D.2.a contains the system-wide control requirements for condensate storage tanks. The current SIP provides for a weekly 75% system-wide VOC reduction during the summer ozone season beginning in 2010. As noted above, the revised section significantly increases the summer ozone season weekly VOC reduction requirements from the current EPA-approved requirements, to 85% beginning in 2010 and 90% beginning in 2011. However, the revised provisions specify no system-wide weekly VOC reduction requirement after the 2012 summer ozone season.[6]

As noted previously, Colorado was able to demonstrate attainment based on a 75% system-wide weekly VOC reduction from condensate storage tanks beginning in 2010. While revised Section XII would provide more stringent reductions in the short term, including the attainment year, it contains no weekly emission reduction requirement after the 2012 summer ozone season. Thus, although it is more stringent in the short term, it is less stringent over the long term, and the State has not demonstrated how this weakening of the SIP will not interfere with maintenance of the NAAQS. This deficiency forms part of the basis for our proposed disapproval of revised Section XII.

Section XII.D.2.b.

Section XII.D.2.b is a re-numbered version of current EPA-approved Section XII.A.9. This section contains a process for approval of alternative emissions control equipment and pollution prevention devices and processes. Among other things, the section specifies requirements for public participation and EPA approval. Colorado did not change the substance of this provision, but simply renumbered it from Section XII.A.9 to now be section XII.D.2.b.

The revised section contains typographical errors that Colorado should correct. In Section XII.D.2.b, Colorado should delete the word "this" in "this Section XII.D.2.a" because Section XII.D.2.a is not part of Section XII.D.2.b. In Section XII.D.2.b.(i)(E), the reference to "the spreadsheet and annual report required by Sections XII.F.4 and XII.F.5" should be to "the spreadsheet and annual report required by Sections XII.F.3 and XII.F.4."

Section XII*.E.*

Section XII.E contains the monitoring requirements that are currently specified in EPA-approved Sections XII.A.3 and XII.A.4.j. Colorado retained the basic requirement for weekly inspections or monitoring.

Colorado improved certain provisions. For example, under revised Section XII.E, an owner or operator must ensure that the control equipment is not only operating, but that it is operating properly. Revised Section XII*.E.*1 adds a requirement that owners

[6] We note that the system-wide weekly reduction requirement of 78% that commences in May 2012 in the current EPA-approved version of Section XII contains no termination date.

or operators of control equipment other than a combustion device follow manufacturer's recommended maintenance and inspect the equipment to ensure proper maintenance and operation. Revised Section XII.E.4 (current XII.A.4.j) adds a requirement that the owner or operator document any corrective actions taken and the name of the individual performing the corrective actions resulting from a weekly inspection. Revised Sections XII.E.4.a through d add the requirement that the owner or operator not only perform certain checks, but that the owner or operator document those checks.

Revised Section XII.E.3 is deficient. It specifies certain inspection and/or monitoring requirements for combustion devices. It introduces two possible means to monitor/inspect the combustion device, but one of them—use of a surveillance system—is designated as a State Only option. The federally-enforceable SIP cannot provide a compliance option that is only available as a matter of State law. Discussions with the State have revealed that use of a surveillance system was not intended as an alternative to the monitoring method contained in Section XII.E.3.a, but as a technique that owners/operators could use on a trial basis in addition to the method contained in Section XII.E.3.a. Thus, the word "either" in Section XII.E.3 and the words "and/or" in XII.E.3.a are not appropriate. This deficiency forms part of the basis for our proposed disapproval of revised Section XII.

Section XII.F.

Section XII.F contains recordkeeping and reporting requirements that are currently specified in EPA-approved Sections XII.A.4 and XII.A.5. The recordkeeping requirements specify information that must be listed on a spreadsheet that owners/operators must maintain. Many of the provisions are identical to those in the current EPA-approved SIP.

Sections XII.F.1 through 4.

In Sections XII.F.1 through 4, Colorado made a few substantive changes to the existing provisions. In revised Section XII.F.3, Colorado added a sentence requiring the owner or operator to track VOC reductions on a calendar weekly and calendar monthly basis to demonstrate compliance with system-wide VOC reduction requirements. Colorado also specified that owners/operators would need to use the Division-approved spreadsheet to track VOC emissions and reductions, not just any spreadsheet. These changes are reasonable and consistent with CAA requirements.

In revised Section XII.F.3.a(i), which requires the spreadsheet to list the condensate storage tanks subject to Section XII and the production volumes for each tank, Colorado specified that the spreadsheet must list monthly production volumes. It is unclear why Colorado added the word "monthly" because the following sentence, which Colorado did not change, requires the owner/operator to list the most recent measurement of such production and the time period covered by the measurement. Also, revised Section XII.F.3.a(iv) requires the owner/operator to list the production volume for each tank as a weekly and monthly average based on the most recent measurement available and specifies the method for pro-rating that measurement over the weekly or monthly period. Given the specificity of Section XII.F.3.a(iv), we are not concerned that the addition of the word "monthly" in revised Section XII.F.3.a(i) would undermine the enforceability of the regulation. However, Colorado should remove the word "monthly" in revised Section XII.F.3.a(i).

Revised Section XII.F.3.c requires owners/operators to retain a copy of each weekly and monthly spreadsheet for five years instead of the three years required by current EPA-approved Section XII.A.4.i.

Revised Section XII.F.3.d requires owners/operators to maintain records of inspections required by Section XII.E but does not specify a period for maintenance of the records. This is consistent with EPA-approved Section XII.A.4.j. However, we consider this something that Colorado should address. Typically, EPA recommends that such records be kept for a minimum of five years.

Revised Section XII.F.3 does not contain adequate recordkeeping for the control requirement that applies to new and modified condensate tanks under Section XII.D.1. As noted above, for new and modified condensate tanks, owners or operators are required to use air pollution control equipment with a control efficiency of at least 95% for the first 90 days. However, the regulation only specifies State-only recordkeeping requirements relevant to this requirement—in Section XII.F.3.f—and includes no reporting requirements that would be federally enforceable. To meet CAA requirements, the regulation, at a minimum, should specify that owners/operators provide notification and maintain certain records. We believe relevant records would include, but may not be limited to: The date a new atmospheric condensate storage tank was installed, or the date a well was newly drilled, re-completed, re-fractured or otherwise stimulated; the date the control equipment was installed and, if applicable, removed; the manufacturer's design specifications for the control equipment; the manufacturer's operation and maintenance specifications/instructions for the control equipment; and any downtime of the control equipment or other operational problems and corrective action taken. The regulation should also specify a record retention period for such records. The regulation specifies a five-year retention period for other records, and it would be appropriate to specify the same retention period for these records. The regulation should also specify that owners/operators need to report within a reasonable period of time after the date the new atmospheric condensate storage tank was installed or the date the well was newly drilled, re-completed, re-fractured or otherwise stimulated. The regulation should also require the owner/operator to report any non-compliance with the requirements of Section XII.D.1 within a reasonable time frame. The deficiencies in recordkeeping and reporting requirements pertaining to the control requirements of revised Section XII.D.1 form part of the basis for our proposed disapproval of revised Section XII.

In revised Section XII.F.4, Colorado made minor changes to current EPA-approved reporting requirements. Revised Section XII.F.4.a requires the semi-annual reports to list all condensate storage tanks subject to or used to comply with the system-wide reduction requirements, not just those subject to such requirements. This reflects the change to the regulation that allows owners/operators to control tanks with emissions below the APEN filing levels to meet the percent reduction requirement in Section XII.D.2. In revised Sections XII.F.4.d through f Colorado clarified that the April 30 reports must include the monthly emissions information and the November 30 reports must include the weekly emissions information. In revised Section XII.F.4.g, Colorado deleted the requirement in current EPA-approved Section XII.A.5.g that the owner/operator note in the report "the date the source believes the shutdown [of control equipment] occurred, including the basis for such belief." We believe this deletion is reasonable because the owner/operator is not likely to be able to make an accurate estimate

of the date the shutdown occurred, and, thus, the information is not likely to be meaningful in an enforcement context. In revised Section XII.F.4.h, Colorado clarified monthly versus weekly reporting requirements. In revised Section XII.F.4.j, Colorado increased the retention period for reports from three years to five years. These changes are consistent with CAA requirements.

Revised Section XII.F.4.l contains a reference to "this Section XII.D.2." The word "this" should be deleted. This typographical error is not significant enough to undermine the enforceability of the regulation, but Colorado should correct it.

Section XII.F.5.

Section XII.F.5 contains an exemption from Section XII's record-keeping and reporting requirements for owners/operators of natural gas compressor stations (NGCSs) or natural gas drip stations (NGDSs) authorized to operate pursuant to a construction permit or Title V operating permit if certain conditions are met. Colorado removed one of the conditions for this exemption contained in current EPA-approved Section XII.A.6. The removed condition provided that total emissions from condensate storage tanks associated with such NGCSs and NGDSs could not exceed 30 tons per year. If we approve the deletion of this condition, the recordkeeping and reporting requirements for the relevant sources with emissions exceeding the 30 tons per year threshold would need to be established through construction or Title V operating permits. Our interpretation of the CAA is that provisions such as monitoring, recordkeeping, and reporting requirements that are needed to ensure the enforceability of the applicable control requirements contained in a SIP must also be contained in the SIP and cannot be left to development in a permit. See. *e.g.,* CAA sections 110(a)(2)(A) and (F), 40 CFR part 51, Subpart K, and 40 CFR part 51, Appendix V. This deficiency forms part of the basis for our proposed disapproval of revised Section XII.

We approved the prior version of the exemption because Section XII's system-wide VOC reduction requirements were limited to systems with emissions over 30 tons per year. In other words, all owners/operators, including owners/operators of NGCSs and NGDSs, were exempt from Section XII's main requirements, including the recordkeeping and reporting requirements, if emissions from their units were under 30 tons per year. Revised Section XII.F.5 also contains typographical errors. In the first line, the reference to "Sections XII" should be to "Section XII." In XII.F.5.a, the reference to "this Section XII.A" should be to "Section XII.D."

Section XII.G.

Section XII.G specifies the control requirements applicable to gas-processing plants and corresponds to current EPA-approved Section XII.B. EPA-approved Section XII.B requires gas-processing plants to meet the requirements in Section XII.B specifically applicable to such plants as well as the requirements in current EPA-approved Section XII.C, pertaining to certain still vents and vents from gas-condensate-glycol separators, and Section XVI, pertaining to emissions from stationary and portable engines. Revised Section XII.G requires gas-processing plants to additionally comply with the requirements of revised Section XII.B, the definitions section, and revised Sections XII.C.1.a and XII.C.1.b, which specify maintenance and design requirements for control equipment and the obligation to minimize leakage of VOCs to the atmosphere. It appears that this change would strengthen the requirements applicable to gas-processing plants.

Section XII.G.1.

Section XII.G.1 specifies that NSPS leak detection and repair requirements apply regardless of the date of construction of the facility. Colorado made no substantive changes to this provision.

Section XII.G.2.

Section XII.G.2 specifies the applicability threshold for installation of control equipment at gas-processing plants and the efficiency requirement for the control equipment. In current EPA-approved Section XII.B.2, installation of control equipment is triggered if condensate storage tank throughput exceeds "APEN de minimis levels." In revised Section XII.G.2, installation is triggered if uncontrolled emissions from a tank or tank battery are greater than or equal to two tons per year. We cannot determine whether this change would strengthen the regulation, weaken it, or leave it the same because we cannot determine whether the same tanks or tank batteries would have to install control equipment or not. Colorado also revised the control efficiency requirement from 95%, with no averaging period specified, to 95% with a rolling 12-month averaging period. We are not convinced this change is consistent with CAA requirements. The revised regulation contains no provisions for testing or determining whether the 95% control has been achieved on a rolling 12-month basis, and if the goal is to have owners/operators install and operate flares with a control efficiency of at least 95%, specifying an averaging period is not particularly meaningful. These issues form part of the basis for our proposed disapproval of revised Section XII.

Section XII.G.3.

Section XII.G.3 specifies the compliance date for existing natural gas processing plants. Colorado did not change the substance of this provision.

Section XII.G.4.

Revised Section XII.G.4, which specifies the compliance date for new gas processing plants, contains typographical errors. The reference to "this Section XII.B" should be to "this Section XII.G." The reference to Section XII.C should be to Section XII.H.

Section XII.G.5.

Section XII.G.5 is entirely new. It adds an exemption from the otherwise applicable requirements of Section XII for an owner or operator of any NGCS or NGDS, but only if the owner or operator applies control equipment designed to achieve a VOC control efficiency of at least 95% to each condensate storage tank or tank battery with uncontrolled VOC emissions greater than or equal to two tons per year and meets certain other requirements. While this is a more stringent requirement than the system-wide requirement because it requires 95% control at each tank or tank battery over the threshold rather than a maximum of 90% control system-wide, Section XII does not specify recordkeeping and reporting requirements to support the provisions of revised Section XII.G.5. Adequate recordkeeping and reporting requirements in the SIP are necessary to ensure the enforceability of the control requirement and to meet CAA requirements. This deficiency forms part of the basis for our proposed disapproval of revised Section XII.

Section XII.G.6.

Section XII.G.6 is new. It specifies that a NGCS or NGDS subject to Section XII.G at which a glycol natural gas dehydrator or natural gas-fired stationary or portable engine is operated shall be subject to Section XII.H and/or XVI. We interpret this to mean that the provisions of Sections XII.H and XVI, as applicable, would apply to such facilities in addition to the provisions of Section XII.G. We view this as a

clarifying change that is consistent with CAA requirements.

Section XII.H.

Section XII.H specifies control requirements for still vents and vents from gas-condensate-glycol separators on glycol natural gas dehydrators located at oil and gas exploration and production operations, natural gas compressor stations, drip stations, or gas-processing plants. In revised Section XII.H, Colorado attempted to clarify current EPA-approved Section XII.C's applicability threshold for control requirements. The relevant language in revised Section XII.H reads as follows:

> This Section XII.C shall not apply to any single natural gas dehydrator, or grouping of dehydrators at an oil and gas exploration and production operation, natural gas compressor station, drip station or gas-processing plant, with uncontrolled actual emissions of volatile organic compounds of less than 15 tons per year. To determine if a grouping of dehydrators exceeds the 15 tons per year threshold aggregate emissions from all dehydrators on site (contiguous and adjacent). The control requirement in this Section XII.H. shall apply to each natural gas dehydrator within a grouping that has actual uncontrolled emissions above one ton per year. The control requirement in this Section XII.H. shall not apply to a natural gas dehydrator with emissions below the APEN reporting thresholds in Regulation Number 3, Part A, Section II.D that is part of a grouping of dehydrators, but the emissions from such dehydrator shall be included in the calculation.

As written, this passage lacks clarity and contains redundant language that EPA cannot approve. While we think we understand the intent—that emissions from all dehydrators are counted in determining whether the 15-ton-per-year threshold is exceeded, but the control requirement only applies to dehydrators with actual uncontrolled emissions above one ton per year—the redundant language and lack of punctuation or missing words in the third sentence of revised Section XII.H create uncertainty. The same is true of stating the threshold for control in two different ways: Controls apply where emissions exceed one ton per year versus controls don't apply where emissions are below the APEN reporting thresholds. This deficiency forms part of the basis for our proposed disapproval of revised Section XII.

We also note that in the quoted passage above, the reference to "This section XII.C" should be to "This section XII.H" and that Colorado should correct this typographical error.

Proposed Action on Section XII Revisions

Based on the deficiencies noted above, we are proposing to disapprove the Section XII revisions. While several of the changes contained in revised Section XII would strengthen the SIP, we are unable to use our authority for partial or limited approval. First, under the circumstances involved here and based on our interpretation of the CAA, it is not appropriate to replace a fully approved Section XII in the SIP with a revised Section XII that contains deficiencies. Second, we have no means to approve only those provisions that strengthen the SIP and reject the rest because Colorado completely reorganized and renumbered Section XII's provisions. The numbering of any relevant subsections that we could approve would not match the numbering of the current EPA-approved subsections; the resulting SIP rule would be unintelligible. Thus, we find that our only available course of action is to propose to disapprove all of revised Section XII.

Sections XIII through XVI

Sections XIII through XVI changes are clerical in nature and do not affect the substance of the requirements. Therefore, we are proposing to approve the changes in Sections XIII through XVI.

Ambient Air Quality Standards Regulation

We are proposing to disapprove Colorado's proposed revisions to its ambient air quality standards regulation. Colorado's ambient air quality standards regulation duplicates information contained in other parts of the SIP and in our regulations. For example, the ambient air quality standards regulation restates the motor vehicle emissions budgets for various areas. However, under our regulations, the budgets are determined by the applicable control strategy SIP or maintenance plan, not by Colorado's ambient air quality standards regulation. Similarly, the ambient air quality standards regulation defines the boundaries and designations of various areas in Colorado. However, EPA defines the designations and boundaries of areas in its own regulations. Approval of the ambient air quality standards regulation could lead to confusion in the event of conflict between the ambient air quality standards regulation and our regulations or other parts of the SIP.

Because we are obligated to act on the State's SIP submission, we plan to disapprove these revisions to the ambient air quality standards regulation as a revision to the SIP. If the State requests to withdraw the regulation from the SIP revision prior to the time we take final action, we would not be obligated to take final action because the revisions to the ambient air quality standards regulation would no longer be pending before the Agency as a SIP revision.

I. Transportation Conformity

Under section 176(c) of the CAA, transportation plans, transportation improvement programs, and new transportation projects, such as the construction of new highways, must "conform" to (*i.e.,* be consistent with) applicable SIPs. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. EPA's conformity rule provisions in 40 CFR part 93 establish the criteria and procedures for determining whether or not these plans, programs, and projects conform to the SIP. In particular, our regulations require a demonstration that emissions from these plans, programs, and projects will be consistent with the motor vehicle emissions budgets (MVEBs) in the SIP (40 CFR 93.118). The MVEBs are defined as that portion of the total allowable emissions defined in the SIP for a certain date, for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, allocated to highway and transit vehicle use and emissions.

EPA's requirements on MVEBs are found in 40 CFR 93.118 and 93.124, and MVEBs are further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–62196). Colorado derived the MVEBs for NO_X and VOCs from its 2010 base case attainment demonstration and defined the MVEBs in Chapter VI of the OAP. We list the MVEBs in Table 3, below.

TABLE 3—IDENTIFICATION OF 2010 NO_X AND VOC MVEBS

Area of applicability	2010 NO_X Emissions (tons per day)	2010 VOC Emissions (tons per day)
Northern Subarea	20.5	19.5
Southern Subarea	102.4	89.7
Total Nonattainment Area	122.9	109.2

Once Colorado submitted the OAP to us, we determined the adequacy of the MVEBs per the procedures and criteria contained in 40 CFR 93.118. On October 15, 2009, we announced the availability of the attainment demonstration and the MVEBs on EPA's transportation conformity adequacy Web site and solicited public comment. The public comment period closed on November 16, 2009; we received no comments. All of this information is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm#denver-me.*

In a January 21, 2010 letter to the Colorado Department of Public Health and Environment, we found that the 2010 NO_X and VOC MVEBs in the OAP were adequate. We announced our adequacy finding in the **Federal Register** on March 4, 2010, and the OAP's MVEBs became effective on March 19, 2010. As a result, as of that date, the Denver Regional Council of Governments (DRCOG), the North Front Range Transportation and Air Quality Planning Council (NFRT), the Colorado Department of Transportation, and the U.S. Department of Transportation were required to use these MVEBs for transportation conformity determinations. However, we note that we are not bound by our prior adequacy determination in this action.

Our analysis indicates that the MVEBs are consistent with and clearly related to the emissions inventory and the control measures in the SIP, and that the MVEBs, when considered together with all other emissions sources, are consistent with attainment of the 1997 8-hour ozone NAAQS in 2010. (*See* 40 CFR 93.118(e)(4).) Therefore we are proposing approval of the MVEBs as reflected in Table 3 above.

We note that our proposed approval applies to the Northern Subarea and Southern Subarea MVEBs as well as the Total Nonattainment Area MVEBs. The Northern Subarea is defined in the OAP as the area denoted by the ozone nonattainment area north of the Boulder County northern boundary and extended through southern Weld County to the Morgan County line. This area includes NFRT's regional planning area as well as part of the Upper Front Range Transportation Planning Region (TPR) in Larimer and Weld counties.

The Southern Subarea is defined in the OAP as the area denoted by the ozone nonattainment area south of the Boulder County northern boundary and extended through southern Weld County to the Morgan County line. This area includes the nonattainment portion of DRCOG's regional planning area and the southern Weld County portion of the Upper Front Range TPR. We note that both subareas are further identified in Figure 2: "8-hour Ozone Emission Budget Subareas" at page VI–6 in the OAP.

In addition to proposing approval of the MVEBs, we are also proposing to approve the process described in the OAP for use of the Total Nonattainment Area MVEBs and the subarea MVEBs. Per the OAP, the initial conformity determination must use the Total Nonattainment Area MVEBs for NO_X and VOCs. After the initial conformity determination, DRCOG and NFRT may switch from using the Total Nonattainment Area MVEBs to using the subarea MVEBs for determining conformity. To switch to use of the subarea MVEBs (or to subsequently switch back to use of the Total Nonattainment Area MVEBs,) DRCOG and the NFRT must use the process described in the OAP at pages VI–4 and VI–5.

V. 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 parts of the OAP and the regulation revisions we are proposing to approve will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA. The OAP contains a valid modeled attainment demonstration showing the area will attain by 2010. As described elsewhere in this action, we are proposing to disapprove Colorado's proposed repeal of Section II.D of Regulation Number 7, Colorado's revisions to Section XII of Regulation Number 7, Colorado's revisions to Part C of Regulation Number 3, Colorado's revisions to its Ambient Air Quality Standards regulation, and specific limited portions of the OAP because those provisions do not meet all applicable requirements of the CAA.

VI. Proposed Action

We are proposing to approve Colorado's 2010 attainment demonstration for the 1997 8-hour ozone NAAQS. We are proposing to approve the motor vehicle emissions budgets contained in the OAP. We are proposing to approve all other aspects of the OAP, with the following limited exceptions: we are proposing to disapprove the last paragraph on page IV–1 and the first paragraph on page IV–2 of the OAP, we are proposing to disapprove the words "federally enforceable" in the second to last paragraph on page V–6 of the OAP, and we are proposing to disapprove the reference to Attachment A in the OAP's Table of Contents and on page IV–3 of the OAP.

We are proposing to approve the revisions to Colorado Regulation Number 3, Parts A and B. We are proposing to disapprove the revisions to Colorado Regulation Number 3, Part C.

We are proposing to approve the following portions of the revisions to Colorado Regulation Number 7:

- Revisions to Sections I through XI, except for Colorado's repeal of Section II.D.
- Revisions to Sections XIII through XVI.

We are proposing to disapprove the following portions of the revisions to Colorado Regulation Number 7:

- Colorado's proposed repeal of Section II.D.
- Revisions to Section XII.

We are proposing to disapprove the revisions to Colorado's Ambient Air Quality Standards Regulation.

The provisions we are proposing to approve meet the requirements of the CAA and our regulations, including 40 CFR 81.300(e)(3)(ii)(D). The provisions

we are proposing to disapprove are inconsistent with CAA requirements and our regulations. Our specific analyses and findings are discussed above in the body of this proposed rulemaking.

EPA is soliciting public comments on its proposed rulemaking as discussed in this document. EPA will consider these comments before taking final action. Interested parties may participate in the Federal rulemaking process by submitting written comments to EPA as discussed in this action.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves some State law as meeting Federal requirements and disapproves other State law because it does not meet Federal requirements; this proposed action does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.);*
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 12, 2010.

Carol Rushin,

Acting Regional Administrator, Region 8.

[FR Doc. 2010–17810 Filed 7–20–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1987–0002; FRL–9177–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Rocky Mountain Arsenal Federal Facility

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule, reopening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 issued a Notice of Intent to Delete portions of the Rocky Mountain Arsenal Federal Facility (RMA) from the National Priorities List (NPL) on June 17, 2010. The portions proposed for deletion are the Central and Eastern Surface Areas of the On-Post Operable Unit (OU3) including surface media and structures (CES) and the surface media of the entire Off-Post Operable Unit (OU4) (OPS). A formal request was made to extend the public comment period which is scheduled to end on July 19, 2010. In response, EPA is reopening the public comment period for an additional 30 days concluding on August 16, 2010.

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), have determined that all appropriate response actions under CERCLA at the CES and OPS, other than operation, maintenance, and five-year reviews, have been completed.

This rationale for deleting the CES and OPS from RMA has not changed. The **Federal Register** notice for the proposed deletion (75 FR 34405) discusses this rationale in detail.

DATES: The comment period for the proposed rule published June 17, 2010, at 75 FR 34405, is reopened. Comments concerning the proposed partial deletion may be submitted to EPA on or before August 16, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1987–0002, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: chergo.jennifer@epa.gov.*
- *Fax:* 303–312–7110.
- *Mail:* Ms. Jennifer Chergo, Community Involvement Coordinator (8OC), U.S. EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

—EPA's Region 8 Superfund Records Center, 1595 Wynkoop Street, Denver, Colorado 80202–2466. Hours: 8 a.m. to 4 p.m. by appointment (call 303–312–6473), Monday through Friday, excluding legal holidays; and the

—Joint Administrative Records Document Facility, Rocky Mountain