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An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 98-18752 Filed 7-14-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CO-001-0024a; FRL-6124-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Colorado; 1993 Periodic Carbon Monoxide Emission Inventories for Colorado

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Colorado on September 16, 1997. The effect of this action is to approve 1993 periodic carbon monoxide (CO) emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont that were submitted by the Governor, as a revision to the State Implementation Plan (SIP), as required by section 187(a)(5) of the Clean Air Act (CAA), as amended in 1990. This action is being taken under section 110 of the CAA.

**DATES:** This direct final rule is effective on September 14, 1998 without further notice, unless EPA receives adverse comments by August 14, 1998. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air Program, Mailcode 8P2-A, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Program, Environmental Protection Agency,

Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

**FOR FURTHER INFORMATION CONTACT:** Cindy Rosenberg, EPA, Region VIII, (303) 312-6436.

**SUPPLEMENTARY INFORMATION:** On September 16, 1997, the State of Colorado submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of the 1993 periodic carbon monoxide (CO) emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont.

#### I. Background

As required by the CAA, States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The CAA required States with moderate or serious CO nonattainment areas to initially submit a base year CO inventory that represented actual emissions during the peak CO season by November 15, 1992. This base year inventory was for calendar year 1990. Moderate and serious CO nonattainment areas were also required to submit a revised emissions inventory periodically. The 1990 base year inventory was to serve as the primary inventory from which the periodic inventories were to be derived. As per CAA section 187(a)(5), the submittal of the first periodic emissions inventory, as a revision to the SIP, was required no later than September 30, 1995, and every three years thereafter until the area is redesignated to attainment. This requirement applies to Colorado Springs, Denver, Fort Collins, and Longmont. Further information on these inventories and their purpose can be found in the document "Emission Inventory Requirements for Carbon Monoxide State Implementation Plans", USEPA, Office of Air Quality Planning and Standards, EPA-450/4-91-011, March, 1991, and the September 30, 1994, guidance memorandum entitled "1993 Periodic Emission Inventory

Guidance", signed by J. David Mobley, Chief of the Emission Inventory Branch (hereafter, the Mobley Memorandum).

The periodic inventories were to be prepared in similar detail as was done with the 1990 base year inventories and were to address actual CO emissions for the area during the peak CO season. The peak CO season should reflect the months when peak CO air quality concentrations occur. As winter is the peak CO season for Colorado Springs, Denver, Fort Collins, and Longmont, the 1993 periodic inventories included the period November through January. The periodic inventories are to address emissions from stationary point, area, on-road mobile, and non-road mobile sources.

#### II. Summary of SIP Revision

##### A. Review of the 1993 CO Periodic Emissions Inventories (PEI) for Colorado Springs, Denver, Fort Collins, and Longmont

The September 30, 1994, Mobley memorandum allowed for two options for the approach to developing the 1993 PEI. If the 1993 PEI was to be used for a regulatory purpose (i.e., milestone compliance demonstration, rate of progress, maintenance plan tracking, etc.) a rigorous, comprehensive PEI was to be developed similar in detail and documentation to that which was done for the 1990 base year inventory. If, however, EPA and the State determined that the 1993 PEI would not be used to support a regulatory purpose other than to fulfill the CAA section 187(a)(5) requirement, a less rigorous approach could be appropriate. Colorado chose the latter option for all four 1993 PEIs.

EPA has reviewed the 1993 PEIs for Colorado Springs, Denver, Fort Collins, and Longmont. Summary tables, calculations for all identified sources in each source category, and adequate documentation were provided by the State for each of the four PEIs. EPA has determined that the Colorado Springs, Denver, Fort Collins, and Longmont 1993 PEIs satisfy the requirements of section 187(a)(5) of the CAA.

The 1993 CO emissions from point sources, area sources, on-road mobile sources, and non-road mobile sources for Colorado Springs, Denver, Fort Collins, and Longmont are summarized in the following table:

CARBON MONOXIDE SEASONAL EMISSIONS IN TONS PER DAY

Non-attainment area	Point source emissions*	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Total emissions
Colorado Springs .....	2.83	29.49	250.80	34.70	317.82

## CARBON MONOXIDE SEASONAL EMISSIONS IN TONS PER DAY—Continued

Non-attainment area	Point source emissions*	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Total emissions
Denver .....	13.37	72.40	1441.97	152.96	1680.70
Fort Collins .....	0.18	7.54	49.99	8.96	66.67
Longmont .....	0.03	2.36	20.78	5.54	28.71

\*Major CO point sources (i.e., CO emissions equal to or greater than 100 tons per year).

All supporting calculations and documentation for these 1993 carbon monoxide periodic inventories are contained in the State's Technical Support Document (TSD) for this action.

### B. Procedural Background

The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA provides that each SIP revision (including emission inventories) be adopted after going through a reasonable notice and public hearing process prior to being submitted by a State to EPA.<sup>1</sup> The State held a public hearing for the Colorado Springs, Denver, Fort Collins, and Longmont 1993 PEIs on December 21, 1995, directly after which the inventories were adopted by the Air Quality Control Commission (AQCC); the inventories were formally submitted by the Governor on September 16, 1997. EPA determined the submittal was complete on February 23, 1998.

### III. Final Action

EPA is approving the carbon monoxide 1993 periodic emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont as fulfilling the requirements of section 187(a)(5) of the CAA. These inventories were submitted by the Governor with a letter dated September 16, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial

amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective September 14, 1998 without further notice unless the Agency receives adverse comments by August 14, 1998.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Any parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 14, 1998 and no further action will be taken on the proposed rule.

### IV. Administrative Requirements

#### A. Executive Orders 12866 and 13045

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

The final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

#### B. Regulatory Flexibility Act

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

impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### C. Unfunded Mandates

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

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements.

Accordingly, no additional costs to State, local, or tribal governments, or to

<sup>1</sup> Memorandum from John Calcagni, Director, Air Quality Management Division, and William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors, Region I-X, "Public Hearing Requirements for 1990 Base-Year Emission Inventories for Ozone and Carbon Monoxide Nonattainment Areas," September 29, 1992.

the private sector, result from this action.

#### *D. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *E. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 14, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### *F. Approving SIP Revisions in Audit Law States*

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

enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

#### **List of Subjects in 40 CFR Part 52**

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

Dated: July 6, 1998.

**Patricia D. Hull,**  
*Acting Regional Administrator,*  
*Region VIII.*

40 CFR part 52 is amended as follows:

#### **PART 52—[AMENDED]**

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

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

#### **Subpart G—Colorado**

2. Section 52.348 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

##### **§ 52.348 Emission inventories.**

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(b) On September 16, 1997, the Governor of Colorado submitted the 1993 Carbon Monoxide Periodic Emission Inventories for Colorado Springs, Denver, Fort Collins, and Longmont as revisions to the Colorado State Implementation Plan. These inventories address carbon monoxide emissions from stationary point, area, non-road mobile, and on-road mobile sources.

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 76**

[CS Docket No. 97-80; FCC 98-116]

#### **Commercial Availability of Navigation Devices**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** These rules provide for the commercial availability of set top boxes and other consumer equipment used to receive video signals and other services. The intended effect of these rules is to expand opportunities for consumers to purchase this equipment from sources other than the service provider.

**DATES:** Effective upon approval by the Office of Management and Budget

("OMB"), but no sooner than August 14, 1998, except for § 76.1204, which shall become effective July 1, 2000. When approval is received, the Commission will publish a document announcing the effective date. Written comments by the public on the modified information collection requirements should be submitted on or before September 14, 1998.

**ADDRESSES:** A copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington, DC 20554, or via the Internet to jboley@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** Thomas Horan, Cable Services Bureau, (202) 418-7200. For additional information concerning the information collections contained herein, contact Judy Boley at 202-418-0214, or via the Internet at jboley@fcc.gov.

**PAPERWORK REDUCTION ACT:** This *Report and Order* has been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and found to impose new or modified information collection requirements on the public. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to take this opportunity to comment on the information collection requirements contained in this *Report and Order*, as required by the 1995 Act. Public comments are due September 14, 1998. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**OMB Approval Number:** 3060-XXXX (new collection).

**Title:** Commercial Availability of Navigation Devices.

**Type of Review:** New collection.

**Respondents:** Businesses or other for-profit entities.

**Number of Respondents:** 200.

**Estimated Time Per Response:** 10 minutes to 40 hours.

**Frequency of Response:** On occasion.

**Total Annual Burden to Respondents:** 3,266 hours.

**Total Annual Cost to Respondents:** \$29,632.

**Needs and Uses:** The disclosure requirements set forth in this