

paragraph (i)(1) of this section under the laws of more than one state, and

(3) \* \* \*

\* \* \* \* \*

(h) *International Stock Index Investment Fund* means the fund established under 5 U.S.C. 8438(b)(1)(E);

\* \* \* \* \*

(k) *Small Capitalization Stock Index Investment Fund* means the fund established under 5 U.S.C. 8438(b)(1)(D);

\* \* \* \* \*

Signed at Washington, DC, this 22nd day of March, 2000.

**Leslie Kramerich,**

*Acting Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor.*

[FR Doc. 00-13250 Filed 5-26-00; 8:45 am]

**BILLING CODE 4510-29-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OH135-1a, FRL-6600-8]

### Approval and Promulgation of Implementation Plans; Ohio

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving, as set forth below, a request from Ohio for a revision to the Ohio State Implementation Plan (SIP) for transportation conformity. The transportation conformity SIP revision enables the State of Ohio to implement and enforce the Federal transportation conformity requirements at the State or local level. The submitted amendments to Ohio Administrative Code reflect the third set of EPA revisions to the federal transportation conformity rules. These rule changes will assure conformity of transportation improvement programs, transportation plans and transportation projects to the SIP. On October 6, 1999, the State of Ohio submitted the adopted rules and public hearing documentation to EPA and requested a revision to the federally approved SIP.

**DATES:** This rule is effective on July 31, 2000, unless EPA receives adverse written comments by June 29, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs

Branch (AR-18)), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the material submitted by the State in support of this request is available for inspection at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Patricia Morris at (312) 353-8656 before visiting the Region 5 Office.)

#### FOR FURTHER INFORMATION CONTACT:

Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR-18)), USEPA, Region 5, Chicago, Illinois 60604, (312) 353-8656.

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" is used we mean EPA.

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### I. Background

#### A. What is Transportation Conformity?

The purpose of transportation conformity is to assure that transportation plans, programs and projects, approved by the United States Department of Transportation conform to the purpose of the SIP to attain and maintain the public health based air quality standards. Conformity provisions first appeared in the Clean Air Act (CAA) amendments of 1977 (Public Law 95-95). Although these provisions did not define the term conformity, they provided that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP that has been approved

or promulgated for the nonattainment or maintenance areas.

The CAA Amendments of 1990 expanded the scope and content of the conformity provisions by defining conformity to an implementation plan. Conformity is defined in section 176(c) of the CAA as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that affected activities will not: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The CAA requires EPA to promulgate criteria and procedures for determining conformity of all Federal actions in the nonattainment or maintenance areas to the SIP. Actions under title 23 United States Code (U.S.C.) or the Federal Transit Act are covered under the transportation conformity rules codified at 40 CFR part 51, subpart T and part 93, subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The criteria and procedures developed for all other federal actions are called "general conformity" rules.

#### B. Why Must the State Submit a Transportation Conformity SIP?

The original 1993 conformity rule required the States and local agencies to adopt and submit a transportation conformity SIP revision to the EPA not later than November 24, 1994 (40 CFR 51.396). Ohio submitted its SIP revision for state transportation conformity rules on August 17, 1995.

The federal transportation conformity rule however, was amended on August 8, 1995, and again on November 14, 1995. The November 14, 1995, amendments allow 12 months, or until November 14, 1996, for States to submit a transportation conformity SIP revision consistent with these amendments. Ohio had submitted state conformity rules consistent with the original November 24, 1994, conformity rules on August 17, 1995, and these rules were conditionally approved by EPA on May 16, 1996 (61 FR 24702). The condition of the approval was that Ohio update the State transportation conformity rules to be consistent with the federal amendments. Ohio updated its State

rules and met the condition of the conditional approval within the allotted time.

The federal conformity rule was again amended on August 15, 1997 (40 CFR parts 51 and 93 Transportation Conformity Rule Amendments: Flexibility and Streamlining). States were again given a 12 month time frame to submit State rules consistent with the amendment. Ohio proceeded to update the state transportation conformity rules and submitted the rules on October 6, 1999 (this submittal is the subject of this rulemaking action). However, on March 2, 1999, the United States Court of Appeals for District of Columbia Circuit issued its opinion in *Environmental Defense Fund v. Environmental Protection Agency*, No. 97–1637. The Court granted the environmental group's petition for review and ruled that several provisions in the federal transportation conformity rules were unlawful. The rules approved in this rulemaking are consistent with the August 15, 1997, federal conformity amendments that remained unchanged by the Court decision. However, Ohio will need to submit another transportation conformity SIP revision consistent with future amendments to the transportation conformity rule.

The approval of these State transportation conformity rules will update the federally approved State rules to be more consistent with the federal conformity rules, thereby improving the conformity process and providing consistency with other States rules and the federal rule.

## II. Review of the State Transportation Conformity Rule

### A. What Did the State Submit?

Pursuant to the requirements under section 176(c)(4)(C) of the Clean Air Act, the Ohio Environmental Protection Agency (OEPA) submitted a SIP revision to the EPA on October 6, 1999. In its submittal, the State adopted State rules to meet the requirements of 40 CFR part 51, subpart T, and part 93 subpart A, as published on August 15, 1997. Transportation conformity is required for all nonattainment or maintenance areas for any transportation related criteria pollutants (40 CFR 51.394 (b)).

The State of Ohio currently has 28 counties which are ozone nonattainment or ozone maintenance areas and thus require Ohio to prepare transportation conformity analyses. These areas are: Toledo area (Lucas and Wood Counties), Cleveland/Akron area (Lorain, Cuyahoga, Medina, Summit, Portage, Geauga, Lake, and Ashtabula Counties), Youngstown area (Trumbull

and Mahoning Counties), Canton (Stark County), Columbus (Franklin, Delaware and Licking Counties), Cincinnati (Hamilton, Butler, Clermont, and Warren Counties), Dayton (Preble, Montgomery, and Greene Counties), Springfield (Miami and Clark Counties), Clinton County, Columbiana County, and Jefferson County. In addition to the ozone nonattainment and maintenance areas, Cuyahoga County is also a maintenance area for carbon monoxide.

Section 51.390 of the transportation conformity rule requires that the majority of the Federal rules be incorporated verbatim, with only a few exceptions. In addition, the rule states that State rules can not be more stringent than the Federal rules unless the conformity provisions "apply equally to non-federal as well as Federal entities" (40 CFR 51.396(a)). The OEPA held a public hearing on the transportation conformity submittal on December 10, 1998.

### B. How Does the Submittal Change the Currently Approved State Transportation Conformity Rules?

The currently approved Ohio conformity rules comply with the 1994 federal conformity regulations. These federal regulations have been amended significantly, as discussed in the previous section. The Ohio submittal revises the State conformity regulations consistent with the 1997 Transportation Conformity Rule Amendments: Flexibility and Streamlining, which is the most current federal transportation conformity regulation.

Section 51.390 of the federal transportation conformity rule states that to be approved by the EPA, the submitted SIP revision must "address all requirements of this subpart in a manner which gives them full legal effect." In particular, the revision shall incorporate the provisions of the following sections verbatim, except insofar as needed to give effect to a stated intent in the revision to establish criteria and procedure more stringent than the requirements stated in these sections: 93.101, 93.102, 93.103, 93.104, 93.106, 93.109, 93.110, 93.111, 93.112, 93.113, 93.114, 93.115, 93.116, 93.117, 93.118, 93.119, 93.120, 93.121, 93.126, and 93.127. The State of Ohio submittal incorporated all of the above sections verbatim following the August 15, 1997 version of the federal rules, with only clarifying changes. The criteria and procedures for consultation between State and local agencies, metropolitan planning organizations and federal agencies were changed from the previous State consultation rules. These

changes are not being approved, as discussed further in the next section.

## C. What is EPA Approving Today and Why?

We are approving certain sections of the Ohio transportation conformity rule amendments which were adopted on January 26, 1999, and became effective on February 16, 1999.

The following is a summary of the Ohio Administrative Code and the sections that are being approved and why, and the sections that are not being approved and why:

OAC 3745–101–02 *Definitions*. These definitions are consistent with the federal rule and the Court decisions. This rule is being approved.

OAC 3745–101–03 (A), (B), (C), (D), (G), (H), (I), (J), (K), (L) *Applicability, priority, and frequency of conformity determinations*. The sections listed are being approved as consistent with the federal rule and the Court decisions. However, sections (E) and (F) are not being approved. Section E allows projects to proceed to completion after completing the National Environmental Policy Act (NEPA) requirements. This provision was struck down by the court in case No. 97–1637. Section F allows a grace period of 12 months for new nonattainment areas. This was disallowed by the United States Court of Appeals for the District of Columbia Circuit in case No. 96–1007.

OAC 3745–101–04 *Consultation*. This section is not being approved. The State is required to promulgate procedures and rules for consultation between State and local agencies, metropolitan planning organizations and federal agencies. Although this section has not been affected by the Court decisions, the submitted version does not have the detail of the previously approved consultation rule. Therefore, rule OAC 3745–101–04 will remain the same as previously approved.

OAC 3745–101–05 *Content of transportation plans*. This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–06 *Relationship with NEPA and fiscal constraints*. This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–07 *Criteria and procedures for conformity determination, assumptions, emissions model, and consultation*. Sections A, B, C, D, E, F, G, H, I, and J are being approved except for the parts of the sections which require a submitted budget to be used 45 days after submittal to EPA. These sections are contrary to the March 2, 1999, Court

decisions. The parts of sections that are not being approved are as follows: OAC 3745-101-07 (C)(1)(a), (C)(2)(a),

OAC 3745-101-08 *Criteria and procedures for implementation of TCMs, current conformity, and projects from a plan and TIP*. This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745-101-09 *Localized CO and PM10 violations and compliance with PM10 control measures*. This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745-101-10 *Motor Vehicle Emissions Budgets*. Sections A, B, C and D are being approved because these sections are consistent with the federal rule and the Court decisions. Section E is not being approved because it is not consistent with the March 2, 1999 Court decisions.

OAC 3745-101-11 *Criteria and Procedures: Emission Reductions in Areas Without Motor Vehicle Emissions Budgets*. This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745-101-12 *Consequences of Control Strategy Implementation Plan Failures*. This section is being approved because it is consistent with the federal rule and the Court decisions, except for section (A)(2) which allows 120 days after a control strategy SIP disapproval before a conformity lapse takes effect. The Court ruled that a conformity lapse must take effect on the same day as the effective date of a control strategy disapproval.

OAC 3745-101-13 *Requirements for Adoption or Approval of Projects by Other Recipients of Funds Designated Under Title 23 U.S.C. or the Federal Transit Laws*. This section is being approved because it is consistent with the federal rule and the Court decisions, except for section (A)(1) which allows a regionally significant project in the first 3 years of the Transportation Improvement Program to proceed during a conformity lapse. This provision was rescinded by the Court.

OAC 3745-101-14 *Procedures for Determining Regional Transportation-Related Emissions*. This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745-101-15 *Procedures for Determining Localized CO and PM10 Concentrations (Hot-Spot Analysis)*. This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745-101-17 *Enforceability of design concept and scope and project-level mitigation and control measures*. This section is being approved. It is

consistent with the federal rule and the Court decisions.

OAC 3745-101-18 *Exempt projects*. This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745-101-19 *Traffic Signal Synchronization Projects*. This section is being approved. It is consistent with the federal rule and the Court decisions.

### III. Rulemaking Actions

EPA is approving portions of the Ohio Transportation Conformity SIP revision submitted on October 6, 1999. EPA is only approving the sections detailed in the above listing. The rules being approved are consistent with the federal transportation conformity rule and the subsequent Court decisions. EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives significant and relevant adverse written comments by June 29, 2000. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 31, 2000.

### IV. Administrative Requirements

#### A. Executive Order 12866

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

#### B. Executive Orders on Federalism

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999),) which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, (52 FR 41685 (October 30, 1987),) on federalism still applies. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

#### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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

#### D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds

necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

#### *E. Regulatory Flexibility Act*

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

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

#### *F. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995

("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to 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 annual 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 the private sector, result from this action.

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

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

#### *H. National Technology Transfer and Advancement Act*

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

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

#### *I. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2000.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Transportation conformity, Transportation-air quality planning, Volatile organic compounds.

Dated: April 14, 2000.

**Elissa Speizman,**

*Acting Regional Administrator, Region 5.*

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### **PART 52—[AMENDED]**

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

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

#### **Subpart KK—Ohio**

2. Section 52.1870 is amended by adding paragraph (c)(122) to read as follows:

##### **§ 52.1870 Identification of Plan.**

\* \* \* \* \*

(c) \* \* \*

(122) On October 6, 1999, the Ohio Environmental Protection Agency submitted revised Transportation Conformity rules for the State of Ohio. The submittal made revisions to the current State plan for the implementation of the federal transportation conformity requirements at the State and local level in accordance with 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects

Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. Only certain sections of the submittal are approved.

(i) Incorporation by reference.

(A) Ohio Administrative Code: amended rules, OAC 3745-101-02, OAC 3745-101-03 (A), (B), (C), (D), (G), (H), (I), (J), (K), (L), except (E) and (F), OAC 3745-101-05, OAC 3745-101-06, OAC 3745-101-07 (A), (B), (C) except for (C)(1)(a) and (C)(2)(a), (D), (E), (F), (G), (H), (I), (J), OAC 3745-101-08, OAC 3745-101-09, OAC 3745-101-10, OAC 3745-101-11, OAC 3745-101-12 except for (A)(2), OAC 3745-101-13 except (A)(1), OAC 3745-101-14, OAC 3745-101-15, OAC 3745-101-17, OAC 3745-101-18, OAC 3745-101-19, effective on February 16, 1999.

(B) No action is being taken on: OAC 3745-101-04.

\* \* \* \* \*

[FR Doc. 00-13334 Filed 5-26-00; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[CO-001-0037a; FRL-6706-5]

### Approval and Promulgation of Air Quality Implementation Plans; Colorado; Designation of Areas for Air Quality Planning Purposes, Canon City

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

**ACTION:** Direct final rule.

**SUMMARY:** On September 22, 1997, the Governor of the State of Colorado submitted a State Implementation Plan (SIP) revision for the purpose of establishing a redesignation for the Canon City, Colorado area from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (PM<sub>10</sub>) under the 1987 standards. The Colorado Air Pollution Control Division's (Colorado) submittal, among other things, documents that the Canon City area has attained the PM<sub>10</sub> national ambient air quality standards (NAAQS), requests redesignation to attainment and includes a maintenance plan for the area demonstrating maintenance of the PM<sub>10</sub> NAAQS for ten years. EPA is approving the redesignation request and maintenance plan because the State has met the applicable requirements of the Clean Air Act, as amended. Subsequent to this approval, the Canon City area will be designated attainment for the PM<sub>10</sub> NAAQS. This action is being taken

under sections 107, 110, and 175A of the Clean Air Act (Act).

**DATES:** This rule is effective on July 31, 2000, without further notice, unless EPA receives adverse comment by June 29, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, 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 and Radiation 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.

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

#### SUPPLEMENTARY INFORMATION:

Throughout this document, wherever "we," "us," or "our" are used, we mean the Environmental Protection Agency (EPA).

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#### I. EPA's Final Action

##### *What Action Is EPA Taking in This Direct Final Rule?*

We are approving the Governor's submittal of September 22, 1997, that requests a redesignation for the Canon City nonattainment area to attainment for the 1987 PM<sub>10</sub> standards. We are also approving the maintenance plan for the Canon City PM<sub>10</sub> nonattainment area, which was submitted with the State's September 22, 1997 redesignation request. We are approving this request and maintenance plan because Colorado

has adequately addressed all of the requirements of the Act for redesignation to attainment applicable to the Canon City PM<sub>10</sub> nonattainment area. Upon the effective date of this action, the Canon City area's designation status under 40 CFR part 81 will be revised to attainment.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are 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 July 31, 2000, without further notice unless the Agency receives adverse comments by June 29, 2000.

If we receive such comments, then we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 31, 2000, and no further action will be taken on the proposed rule.

#### II. Summary of Redesignation Request and Maintenance Plan

##### *A. What Requirements Must Be Followed for Redesignations to Attainment?*

In order for a nonattainment area to be redesignated to attainment, the following conditions in section 107(d)(3)(E) of the Act must be met:

- (i) We must determine that the area has attained the NAAQS;
- (ii) The applicable implementation plan for the area must be fully approved under section 110(k) of the Act;
- (iii) We must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable Federal air pollutant control regulations and other permanent and enforceable reductions;
- (iv) We must fully approve a maintenance plan for the area as meeting the requirements of CAA section 175A; and,
- (v) The State containing such area must meet all requirements applicable to the area under section 110 and part D of the CAA.