Form 7

DATA FORM FOR THE ESTIMATION OF THE EQUIVALENT KL FROM AIR STRIPPING DUE TO SUBMERGED AERATION.

NAME OF THE FACILITY for site specific biorate determination	
COMPOUND for site specific biorate determination	Methanol
1 VENT RATE of total gas leaving the unit (G, m3/s)	
2 TEMPERATURE of the liquid in the unit (deg. C)	
3 ESTIMATE OF Henry's law constant (H, g/m3 in gas / g/m3 in liquid). Corrected for the temperature on line 2.	
4 AREA OF REACTOR (m2)	

CALCULATION OF THE ESTIMATE OF EQUIVALENT KL

5 [H G] ESTIMATE (m3/s) Multiply the number on line 1 by the number on line 3. Enter the results here.	
6 EQUIVALENT KL. Divide the number on line 5 by the number on line 4. Enter the results on line 6.	

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[FRL–6919–5]

RIN 2060–AJ05

National Primary and Secondary Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to remove requirements relative to the revised PM–10 NAAQS EPA issued in 1997 that were intended to clarify the applicability of the PM–10 National Ambient Air Quality Standards (NAAQS) issued in 1987 (hereafter referred to as the pre-existing PM–10 NAAQS). These requirements were added to the CFR at that time in anticipation of the transition to the implementation of the revised PM–10 NAAQS, and set forth the criteria under which the pre-existing PM–10 NAAQS would cease to apply and the revised PM–10 NAAQS would then become the solely applicable coarse particle standards. However, a recent ruling of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacated the revised PM–10 NAAQS and, thus, removed the basis for these requirements. Therefore, today we are taking final action to remove the requirements from the subsection of the CFR where they are found, thus ensuring that the pre-existing PM–10 standards will continue to apply to all areas where they currently apply. In light of the action taken by the D.C. Circuit, as well as the need from a regulatory and administrative perspective to clarify the status of the pre-existing PM–10 NAAQS, we had previously proposed to remove these requirements as part of our June 26, 2000 proposal ''Rescinding the Finding that the Pre-existing PM–10 Standards are No Longer Applicable in Northern Ada County/Boise, Idaho.'' We have not received any comments on this portion of that proposal to date and are therefore moving forward today to take final action to remove them.

DATES: This rule will become effective January 22, 2001.

FOR FURTHER INFORMATION CONTACT: Questions about this action should be addressed to Gary Blais, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Integrated Policy and Strategies Group, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–3223 or e-mail to blais.gary@epa.gov.

Public inspection. You may read the final rule at the Office of Air and Radiation Docket and Information Center located at 401 M Street, SW, Washington, DC 20460. It is available for public inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

SUPPLEMENTARY INFORMATION:

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I. Background

A. What Was the Basis for EPA's Previous Rulemaking Actions Finding That the Pre-existing PM–10 Standards No Longer Apply?

On July 18, 1997 (62 FR 38856), we issued a regulation replacing the pre-existing PM–10 NAAQS with revised PM–10 NAAQS, along with new NAAQS for fine particulate matter (PM–2.5). Together, these new standards, which became effective on September 16, 1997, were issued to provide increased protection to the public,

especially children, the elderly, and other at-risk populations.

Also, on July 18, 1997, we announced that the effective date of the revocation of the pre-existing PM–10 NAAQS would be delayed and that, therefore, the existing standards and associated designations and classifications would continue to apply for an interim period. We did this to ensure continuity in public health protection during the transition from the pre-existing to the new PM–10 NAAQS. We provided, by regulation, that the pre-existing PM–10 standards would no longer apply to an area once it had attained those standards based on 3 years of quality-assured monitoring data, and had met certain other criteria. The regulation, found at 40 CFR 50.6 (d), was clearly premised upon the existence of the newly-revised PM–10 standards, and the implementation scheme developed for those standards. See 63 FR 38652, 38701.

B. What Effect Does the Recent Court Decision Have on Today's Action?

On May 14, 1999, the U.S. Court of Appeals for the D.C. Circuit issued an opinion questioning the constitutionality of the Clean Air Act (CAA) authority to review and revise the NAAQS, as applied in EPA's revision to the ozone and particulate matter NAAQS. *American Trucking Association, et al.,* v. *EPA, et al.,* and consolidated cases. The Court stopped short of finding the statutory grant of authority unconstitutional, instead providing EPA with another opportunity to develop a determinate principle for promulgating NAAQS under the statute. In its decision, the Court found there was adequate evidence in the rulemaking record to justify EPA's choice to regulate both coarse and fine particulate matter pollution. Nevertheless, the Court went on to find that the Agency's decision to issue separate, but overlapping, regulations governing fine particles (defined as having an aerodynamic diameter of 2.5 microns or less) and regulations governing coarse particles (defined as having an aerodynamic diameter of 10 microns or less, which, therefore, includes particles sized at 2.5 microns and below) was unreasonable. In the Court's view, implementation of both PM–10 NAAQS together would have led to ''double regulation'' of the PM–2.5 component of the revised PM–10 NAAQS, and potential underregulation of pollution above the 2.5 micron size. Consequently, the Court determined that EPA had acted in an arbitrary and capricious manner, and vacated the revised PM–10 NAAQS. Since the regulation at 40 CFR 50.6(d) was premised on the existence of the revised PM–10 NAAQS, this subsection is no longer appropriate or necessary and must be removed from the regulations.

II. What Action Is EPA Taking Today?

Today, we are taking final action to remove 40 CFR 50.6(d). The effect of this regulatory action is that the pre-existing PM–10 standards, as codified at 40 CFR, § 50.6(a) and (b), will remain applicable in those areas where they currently apply.

III. What Aministrative Requirements Have We Considered in Writing Today's Final Rule?

A. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because none of the listed criteria apply to this action. Consequently this action was not submitted to the OMB for review under Executive Order 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604), unless EPA certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. The EPA has determined that this regulatory action will not have a significant impact on a substantial number of small entities because the action does not itself directly impose any new requirements on small entities. See *Mid-Tex Electric Cooperative, Inc.* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to the requirements of the rule). Instead, this action merely removes a regulatory provision made inapplicable by the D.C. Circuit Court's ruling that vacated the revised PM–10 NAAQS which was the underlying basis for the requirement.

Therefore, I certify that this regulatory action will not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 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.

Today's regulatory action 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 regulatory action removes § 50.6, paragraph (d), from the CFR. The effect of this action is that the pre-existing PM–10 standards, as codified at 40 CFR, § 50.6(a) and (b), will remain applicable in those areas where they currently apply. The consequences of this action should not result in any additional costs within the affected areas.

D. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

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.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This regulatory action is not subject to Executive Order13045 because this is not an economically significant regulatory action as defined by Executive Order 12866, and it removes a no longer applicable portion of a previously-promulgated health or safety-based Federal standard, and does not itself involve decisions that affect environmental health or safety risks.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

The EPA concludes that this regulatory action will not have substantial federalism implications, as specified in Section 6 of Executive Order 13132 (64 FR 43255, August 10, 1999), because, as noted previously, this action would simply remove § 50.6, paragraph (d), from the CFR. The effect of this action is that the pre-existing PM–10 standards, as codified at 40 CFR, § 50.6(a) and (b), will remain applicable in those areas where they currently apply. Consequently, this action will not directly impose significant new requirements on any area, or substantially alter the relationship or the distribution of power and responsibilities between the States and the Federal government.

F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's regulatory action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that directly affect Indian tribes. Under EPA's tribal authority rule, tribes are not required to implement CAA programs but, instead, have the opportunity to do so. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

G. Paperwork Reduction Act

This action does not contain any information collection requirements which require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

H. Executive Order 12898: Environmental Justice

Under Executive Order 12898, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. Today's action, removing 40 CFR 50.6(d), does not adversely affect minorities and low-income populations.

I. 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 new regulations. To comply with NTTAA, the 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.

J. Congressional Review Act

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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will become effective 30 days after publication in the **Federal Register**.

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Particulate matter.

Dated: December 13, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 50—[AMENDED]

1. The authority citation for part 50 continues to read as follows:

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

§ 50.6 [Amended]

2. Section 50.6 is amended by removing paragraph (d).

[FR Doc. 00–32666 Filed 12–21–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0044a; FRL–6875–5]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Colorado Springs Revised Carbon Monoxide Maintenance Plan, and Approval of a Related Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On May 10, 2000, the Governor of Colorado submitted a revised maintenance plan for the Colorado Springs carbon monoxide (CO) maintenance area for the CO National Ambient Air Quality Standard (NAAQS). In addition, the Governor also submitted revisions to Colorado's Regulation No. 13 ''Oxygenated Fuels Program''. In this action, EPA is approving the Colorado Springs CO revised maintenance plan and the revisions to Regulation No. 13.

DATES: This direct final rule is effective on February 20, 2001 without further notice, unless EPA receives adverse comments by January 22, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

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

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; and

United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at:

Colorado Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado, 880246–1530.

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

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

I. What is the Purpose of This Action?

In this action, we are approving a revised maintenance plan for the Colorado Springs CO attainment/maintenance area, that is designed to keep the area in attainment for CO through 2010, and we're also approving changes to the State's Regulation No. 13 for the removal of the requirement for the implementation of the wintertime oxygenated fuels program in the Colorado Springs area.

We approved the original CO redesignation request to attainment, a maintenance plan, and revisions to Regulation No. 13 (hereafter, Reg. 13) for the Colorado Springs area on August 25, 1999 (see 64 FR 46279) which became effective on October 25, 1999.

The Governor's May 10, 2000, submittal includes changes to the original maintenance plan that: revises the attainment year from 1993 to 1990 and provides a new 1990 attainment year inventory; revises the maintenance demonstration with a revised 2010 projected emission inventory; revises Reg. 13 to eliminate the oxygenated gasoline program in El Paso County starting with the winter season of 2000–2001; revises the transportation CO emission budgets; and revises a portion of the contingency measures plan. We have determined that these changes are approvable as further described below.

II. What is the State's Process to Submit These Materials to EPA?

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

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the revised Colorado Springs Carbon Monoxide (CO) Maintenance Plan on February 17, 2000. The AQCC adopted the revised maintenance plan directly after the hearing. This SIP revision became State effective on April 30, 2000, and was submitted by the Governor to us on May 10, 2000.

For the Regulation No. 13 revision, the AQCC held a public hearing to consider the changes to Regulation No. 13, that involved the elimination of the oxygenated gasoline program for El Paso County, on February 17, 2000. The AQCC adopted these changes directly after the February 17, 2000, public hearing. They became State effective on April 30, 2000, and were also submitted to us on May 10, 2000.

We have evaluated the Governor's submittal for the revised maintenance plan and changes to Regulation No. 13 and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. We reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, appendix V and determined that the submittals were administratively and technically complete. The Governor was advised of our completeness determination through a letter from Rebecca W. Hanmer, Acting Regional Administrator, dated August 7, 2000.

III. EPA's Evaluation of the Revised Maintenance Plan

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

(a) The State changed the attainment year from 1993 to 1990 and provided a new 1990 emissions inventory.

This is acceptable as the Colorado Springs area was attaining the CO NAAQS in 1990 (based on data from 1990 and 1991 which are archived in our Aerometric Information and