specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: July 30, 2019.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2019–17350 Filed 8–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2019–0354; FRL–9998–07–Region 8]

Finding of Failure To Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of public hearing.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado nonattainment area (Denver Area) failed to attain the 2008 ozone National Ambient Air Quality Standard (NAAQS) by the applicable attainment date for ''Moderate'' nonattainment areas. The effect of failing to attain by the attainment date is that the area will be reclassified by operation of law to ''Serious'' upon the effective date of the final reclassification notice. The EPA is proposing deadlines for submittal of those SIP revisions and implementation of the related control requirements. This proposed action is necessary to fulfill the EPA's statutory obligation to determine whether the Denver Area attained the NAAQS by the attainment date, and, within six months of the attainment date, publish a document in the **Federal Register** identifying each area that is determined as having failed to attain and its reclassification. Previously, the EPA had proposed on November 14, 2018, to grant a request by the State of Colorado for a 1-year attainment date extension for the Denver Area, but by letter dated March 26, 2019, the Governor of Colorado withdrew the State's previous request for this extension. This proposal withdraws the EPA's previous proposed approval of the State's now-withdrawn extension request. This document also announces a public comment period and details for a scheduled public hearing to provide the public with an opportunity to present oral testimony on the proposal. The comment period will ensure the public has sufficient time to comment on the proceedings of the public hearing and the proposal.

DATES: The public hearing will be held on September 6, 2019 beginning at 9 a.m. Mountain Time (MT). Written comments must be received on or before September 16, 2019. Please refer to the **ADDRESSES** for additional information on the public hearing and comment period.

ADDRESSES:

Public Hearing. The public hearing will be held on the 2nd floor of the EPA Region 8 office, 1595 Wynkoop St., Denver, CO 80202. The public hearing will convene at 9:00 a.m. and end one hour after the last registered speaker has spoken, or no later than 5:00 p.m. mountain time (MT) in any event. A lunch break is scheduled from 1:00 to 2:00 p.m. MT. The public hearing will be held in a federal building. Individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff to gain access to the meeting room. The REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. These requirements took effect July 21, 2014. If your driver's license is issued by American Samoa, you must present an additional form of identification to enter the federal building where the public hearing will be held. Acceptable alternative forms of identification include Federal employee badges, passports, enhanced driver's licenses, and military identification cards. For additional information for the status of your state regarding REAL ID, go to *http://www.dhs.gov/real-id-enforcement-brief.*

Oral testimony will be limited to five minutes for each commenter. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (by email) or in hard copy form.

Written Comments: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2019–0354, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.* Written statements and supporting information that are submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments must be postmarked by the last day of the comment period.

Pertinent comments submitted in response to the EPA's November 2018 proposal to grant the State of Colorado's request for a 1-year attainment date extension for the Denver Area, which were part of a national rulemaking concerning Moderate areas, will be considered in this action and do not need to be re-submitted. Other documents from the national rulemaking that are relevant to this proposed action for the Denver Area will also be included in the docket for this action. However, we are not re-opening comment in this proposal on any of the final agency actions for the other Moderate Areas addressed in the national rulemaking.

Docket: All documents in the docket are listed in the *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 at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Abby Fulton, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6563, *fulton.abby@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. What is the EPA proposing and what is the rationale?

The EPA designated the Denver Area as nonattainment and classified the area as Marginal on July 20, 2012. On May 4, 2016, the EPA published its determination that the Denver Area had failed to attain the 2008 8-hour ozone NAAQS by the attainment deadline, and that the Denver area was accordingly reclassified to a Moderate ozone nonattainment area.[1] On November 14, 2018, the EPA proposed to grant the request from the State of Colorado for a 1-year attainment date extension for the Denver Area for the 2008 ozone NAAQS.[2] On March 26, 2019, the Governor of Colorado sent a letter to EPA Region 8 Administrator to withdraw the State's previous request for a 1-year attainment date extension for the 2008 ozone NAAQS.[3] Accordingly, the EPA is now proposing to determine that the Denver Area failed to attain the 2008 ozone NAAQS by its applicable attainment date.[4]

The 2008 ozone NAAQS is met at an ambient monitoring site when the design value[5] does not exceed 0.075 parts per million (ppm). For areas classified as Moderate nonattainment for the 2008 ozone NAAQS, the attainment date was July 20, 2018. Because the design value is based on the three most recent complete calendar years of data prior to the attainment date, the EPA's proposed determination for the Denver Area is based upon the complete, quality-assured and certified ozone monitoring data from calendar years 2015, 2016, and 2017.

Data from all monitors in an area must be evaluated when determining if the area attains the NAAQS. For the EPA to make a determination as to whether an area has attained the NAAQS, each monitor must have a valid[6] design value meeting the standard. If one or more monitors in an area have a design value that exceeds the standard, the area does not attain the NAAQS. The Denver Area's 2015–2017 design value was 0.079 ppm, exceeding the standard of 0.075 ppm. See 83 FR 56784.

As noted above, the State has withdrawn its previous request for a 1-year extension of the attainment date to July 20, 2019, and as a result the Denver Area is no longer eligible for a 1-year attainment date extension under section 181(a)(5) of the CAA and 40 CFR 51.1107. As stated in the Clean Air Act's attainment date extension provision for ozone nonattainment areas, section 181(a)(5), "[u]pon application by any State," the EPA may extend an area's attainment date by one year provided certain criteria are met. The EPA interprets a state's application to be a necessary prerequisite to granting the 1-year extension.[7] Therefore, based on the applicable ozone design value, in this document the EPA is proposing to determine that the Denver Area did not attain by the attainment date of July 20, 2018, and is providing notice of the area's proposed reclassification to Serious, as required under CAA section 181(b)(2). If the EPA finalizes the determination that the area failed to attain by the attainment date, it will be reclassified to Serious by operation of law. The reclassified area will then be subject to the Serious area requirement to attain the 2008 ozone NAAQS as expeditiously as practicable, but not later than 9 years from the date of original designation, or July 20, 2021.

II. Serious Area SIP Revision Submission Deadlines and Reasonably Available Control Technology (RACT) Implementation Deadlines

Once an area is reclassified as Serious, the state must submit to the EPA the SIP revisions for the area that satisfy the statutory and regulatory requirements applicable to Serious areas established in CAA section 182(c) and in the 2008 Ozone NAAQS SIP Requirements Rule.[8] Since the deadlines in section 182(c) were based on the 1990 date of enactment of amendments to the CAA and have already passed, in separate rulemakings the EPA is adjusting the deadlines[9] for submitting the SIP revisions required for Serious areas.[10] The EPA is finalizing SIP revision and RACT Implementation deadlines for reclassified Serious areas in an August 2019 national rulemaking.[11] A copy of the pre-publication version of the national rulemaking can be found at *https://www.epa.gov/ground-level-ozone-pollution/2008-ozone-national-ambient-air-quality-standards-naaqs-nonattainment.*

In accordance with CAA section 182(i), in order to "assure consistency among the required submissions" for Moderate areas across the country that failed to attain by the July 20, 2018 attainment date, for the Denver Area we are proposing the same SIP submission due dates and implementation deadlines as we are finalizing in the August 2019 national rulemaking.

We note that these proposed deadlines will result in shorter timeframes between a final action on this determination and reclassification and the SIP submission and RACT implementation deadlines for Denver than for the other reclassified Moderate areas addressed in the national rulemaking. However, the governor's

[1] See 81 FR 26697; 40 CFR 81.306.

[2] *See* 83 FR 56781. Upon a state's request, a nonattainment area for the 2008 ozone NAAQS may obtain a 1-year extension if, for the most recent year prior to the attainment date, the fourth-highest daily maximum 8-hour average ozone concentration does not exceed 0.075 parts per million (ppm) and the area is complying with all obligations of its applicable implementation plan. See CAA section 181(a)(5)(B) and 40 CFR 51.1107.

[3] Letter, "Withdrawal of Colorado's Request to Extend the 2008 Ozone National Ambient Air Quality Standard Attainment Date for the Denver Metropolitan/North Front Range Nonattainment Area" (March 26, 2019), available in the docket; *see also* Press release, "In an Effort to Improve Air Quality, Colorado to Withdraw Extension Request for National Air Standard Compliance," Colorado Governor Jared Polis (March 29, 2019), available at *https://www.colorado.gov/governor/news/effort-improve-air-quality-colorado-withdraw-extension-request-national-air-standard* (accessed June 25, 2019).

[4] We note that there is ongoing litigation alleging that the EPA has failed to perform its nondiscretionary duty under CAA section 181(b)(2) to determine whether the Denver Area attained the ozone standard by the applicable date. *WildEarth Guardians* v. *Wheeler*, Civ. Act. No. 1:19–09cv–0900897–JLK (D. Colo.). The EPA believes that final action on this proposal would moot the claim raised in that litigation.

[5] A design value is a statistic that describes the air quality status of a given location (*i.e.*, air quality monitor) to the level of the NAAQS and is used to determine compliance with the standard. The design value is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations. The design value is calculated for each air quality monitor in an area and the area's design value is the highest design value among the individual monitoring sites in the area. *See* 40 CFR part 50, appendix D—*Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere (Chemiluminescence Method).*

[6] Design values attaining the 2008 ozone NAAQS must also meet minimum data completeness requirements specified in 40 CFR part 50, appendix P to be considered valid.

[7] *Cf. Del. Dep't of Natural Res. and Envtl. Control* v. *EPA*, 895 F.3d 90 (D.C. Cir. 2018) (interpreting section 181(a)(5)'s reference to "any" state literally to provide EPA with authority to grant an extension to a multi-state nonattainment area based on the extension request of only one state in that area).

[8] 80 FR 12264 (March 6, 2015).

[9] Under CAA section 182(i), reclassified areas are required to meet the requirements associated with their newly reclassified status according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is "necessary or appropriate to assure consistency among the required submissions." Because these dates have already passed, the EPA is using its discretion granted under CAA section 182(i) to propose adjusting the deadlines for submitting SIP revisions that would otherwise apply under CAA section 182(c).

[10] Proposed rule, 83 FR at 56788 (Nov. 14, 2018); the final rule adjusting these deadlines is expected to be signed in August 2019, and the pre-publication version of the final rule is at *https://www.epa.gov/ground-level-ozone-pollution/2008-ozone-national-ambient-air-quality-standards-naaqs-nonattainment.*

[11] *See* docket ID number EPA–HQ–OAR–2018–0226.

letter withdrawing the extension request committed to "moving aggressively forward and without delay in our efforts to reduce ground level ozone concentrations in the Denver Metro/North Front Range nonattainment area," and the EPA intends to support these efforts. As the Governor requested, we will continue to work with Colorado's air planning agencies to "to develop appropriate and achievable schedules and strategies for continuing progress towards attainment of the 2008 NAAQS."

Given the State's commitment to addressing its Serious Area obligations, and given section 182(i)'s focus on consistency, we propose that aligning Colorado's deadline with the national deadlines is appropriate and necessary for achieving "consistency among the submissions" of all reclassified areas across the country and supports achieving timely attainment in the Denver Area. A general discussion of CAA section 172(c) state submittal requirements for attainment plans and 182(c) SIP requirements that apply to Serious areas for the 2008 ozone NAAQS is included in the preamble of the November 14, 2018 proposed rulemaking.[12]

1. *Due date for Serious area SIP revisions (including RACT tied to attainment), and implementation deadline for RACT tied to attainment.*

Consistent with the final national notice, we are proposing for the Denver Area the same August 3, 2020 due date to submit Serious area SIP revisions, including RACT measures the State determines necessary for meeting reasonable further progress (RFP) or demonstrating timely attainment in the area, and to implement those RACT measures that are tied to timely attainment.

2. *Due date for SIP revisions for Serious area RACT not tied to attainment, and implementation deadline for Serious area RACT not tied to attainment.*

For Serious areas reclassified from Moderate, the requirement for RACT expands to include all sources that emit, or have the potential to emit, 50 tons per year of volatile organic compounds (VOC) or nitrogen oxides (NO_X).[13] For the Denver Area, we are proposing the same due date for submitting SIP revisions for any RACT provisions not otherwise needed for attainment purposes as the date finalized in the August 2019 national rulemaking for other areas: 18 months from the effective date of that national rulemaking. Additionally, consistent with the national notice, we propose for the Denver Area the deadline of July 20, 2021 for implementation of any new RACT requirements not otherwise needed for RFP or timely attainment purposes.

For further information and rationale supporting these proposed SIP due dates and implementation deadlines, please see our August 2019 rulemaking.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This rulemaking does not impose any new information collection burden under the PRA not already approved by the Office of Management and Budget. This action proposes to: (1) Find that the Denver Area Moderate ozone nonattainment area failed to attain the 2008 NAAQS by the applicable attainment date; (2) identify the area subject to reclassification as Serious ozone nonattainment area by operation of law upon the effective date of the reclassification notice; and (3) adjust any applicable implementation deadlines. Thus, the proposed action does not establish any new information collection burden that has not already been identified and approved in the EPA's information collection request.[14]

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The proposed determination of failure to attain the 2008 ozone NAAQS (and resulting reclassification) does not in and of itself create any new requirements beyond what is mandated by the CAA. Instead, this rulemaking only makes factual determinations, and does not directly regulate any entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, tribes, or the relationship between the national government and the states and tribes, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

[12] *Id.*

[13] 30 *See* CAA sections 182(c) and 182(f).

[14] On April 30, 2018, the OMB approved EPA's request for renewal of the previously approved information collection request (ICR). The renewed request expires on April 30, 2021, 3 years after the approval date (*see* OMB Control Number 2060–0695 and ICR Reference Number 201801–2060–003 for EPA ICR No. 2347.03).

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. The results of this evaluation are contained in the section of the preamble titled "Environmental Justice Considerations."

List of Subjects in 40 CFR Part 52

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

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

Dated: August 8, 2019.

Gregory Sopkin,

Regional Administrator, EPA Region 8.

[FR Doc. 2019–17405 Filed 8–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R08–UST–2019–0827; FRL–9997–45–Region 8]

Montana: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the State of Montana's Underground Storage Tank (UST) program submitted by the State. The EPA has determined that these revisions satisfy all requirements needed for program approval. This action also proposes to codify the EPA's approval of Montana's State program and incorporates by reference those provisions of the State's statutes and regulations that we have determined meet the requirements for approval. The EPA continues to retain its inspection and enforcement authorities under sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions in the State of Montana.

DATES: Send written comments by September 16, 2019.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments.
2. *Email: Martella.Theresa@epa.gov.*
3. *Mail:* Theresa Martella, Region 8, Environmental Scientist, RCRA Branch, (8LCR–RC), Land, Chemicals and Redevelopment Division, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
4. *Hand Delivery or Courier:* Deliver your comments to Theresa Martella, Region 8, Environmental Scientist, RCRA Branch, (8LCR–RC), Land, Chemicals and Redevelopment Division, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

Instructions: Direct your comments to Docket ID No. EPA–R08–UST–2018–0827. The EPA's policy is that all comments received will be included in the public docket without change and may be available online at *https://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 *https://www.regulations.gov* or email. The federal *https://www.regulations.gov* website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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.

You can view and copy the documents that form the basis for this action and associated publicly available materials from 8:30 a.m. to 4 p.m., Monday through Friday, at the following location: EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, phone number (303) 312–6329. Interested persons wanting to examine these documents should make an appointment with the office at least two days in advance.

FOR FURTHER INFORMATION CONTACT: Theresa Martella, Region 8, Environmental Scientist, RCRA Branch, (8LCR–RC), Land, Chemicals and Redevelopment Division, 1595 Wynkoop Street, Denver, Colorado 80202–1129, phone number (303) 312–6329, email address: *Martella.Theresa@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the "Rules and Regulations" section of this issue of the **Federal Register**.

Authority: This rule is issued under the authority of sections 2002(a), 9004, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Hazardous substances, Incorporation by reference, State program approval, and Underground storage tanks.

Dated: August 7, 2019.

Gregory Sopkin,

Regional Administrator, EPA Region 8.

[FR Doc. 2019–17407 Filed 8–14–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–1

RIN 1250–AA09

Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemption

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Labor's (DOL's) Office of Federal Contract Compliance Programs (OFCCP) is proposing regulations to clarify the scope and application of the religious exemption contained in section 204(c) of Executive Order 11246, as amended. The proposed clarifications to the religious exemption will help