

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[PA 122-4078c; FRL-6182-4]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Interim Final Determination That Pennsylvania Continues To Correct the Deficiencies of its Enhanced I/M SIP Revision; Extension of Comment Period**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Interim Final Rule; extension of the comment period.

SUMMARY: In this document, EPA is reopening the comment period for a document published on September 16, 1998 (63 FR 49434). In the September 16 document, EPA made an interim final determination that the Commonwealth of Pennsylvania has corrected the deficiency under the Clean Air Act for failure to have an approved enhanced I/M SIP. EPA's September 16 interim final rule deferred the application of Clean Air Act sanctions which would otherwise have been implemented on August 29, 1998. Although that action was effective upon its publication, EPA took comments from the public until October 16, 1998. At the request of a commenter, EPA is re-opening the comment period through November 16, 1998. All comments received on or before November 16, 1998 will be entered into the public record and considered by EPA before taking final action on the interim final rule.

DATES: Comments must be received on or before November 16, 1998.**ADDRESSES:** Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.**FOR FURTHER INFORMATION CONTACT:** Brian Rehn at (215) 814-2176, or Jill Webster at (215) 814-2033; at the EPA address listed above. Information may also be requested by e-mail at webster.jill@epa.gov. However, comments must be submitted in writing to the EPA address listed above.

Dated: October 22, 1998.

Thomas C. Voltaggio,*Acting Regional Administrator, Region III.*

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 81**

[CT051-7209a; A-1-FRL-6182-2]

Approval and Promulgation of Air Quality Implementation Plans and Designations of Areas for Air Quality Planning Purposes; State of Connecticut; Approval of Maintenance Plan, Carbon Monoxide Redesignation Plan and Emissions Inventory for the Connecticut Portion of the New York—N. New Jersey—Long Island Area**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is approving a request by the Connecticut Department of Environmental Protection (CTDEP) on May 29, 1998 to redesignate the Connecticut portion of the New York—N. New Jersey—Long Island carbon monoxide nonattainment area (hereinafter the southwest Connecticut nonattainment area) from nonattainment to attainment for carbon monoxide (CO). EPA is approving this request which establishes the area as attainment for carbon monoxide and requires the State to implement their 10 year maintenance plan that will insure that the area remains in attainment. Under the Clean Air Act (CAA) as amended in 1990, designations can be revised if sufficient air quality data is available to warrant such revisions. EPA is approving the Connecticut request because it meets the redesignation requirements set forth in the CAA. In this action, EPA is also approving the 1993 periodic emission inventory for CO emissions.

DATES: This action is effective January 4, 1999, unless EPA receives adverse or critical comments by December 2, 1998. Should the Agency receive such comments, it will publish a timely withdrawal informing the public that this rule will not take effect.**ADDRESSES:** Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203-2211. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630.**FOR FURTHER INFORMATION CONTACT:**Jeffrey S. Butensky, Environmental Planner, Air Quality Planning Unit of the Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203-2211, (617) 565-3583 or at butensky.jeff@epamail.epa.gov**SUPPLEMENTARY INFORMATION:** On May 29, 1998, the State of Connecticut submitted a formal redesignation request consisting of air quality data showing that the southwest Connecticut area is attaining the standard and a maintenance plan with all applicable requirements. In addition, in December, 1996, the State of Connecticut submitted a 1993 periodic carbon monoxide inventory which is also being approved in today's action.**I. Summary of SIP Revision****A. Background**

On March 31, 1978, (See 43 FR 8962), EPA published a rulemaking which set forth the attainment status for all States in relation to the National Ambient Air Quality Standards (NAAQS). The Connecticut portion of the New York—N. New Jersey-Long Island area was designated as nonattainment for carbon monoxide (CO) through this notice. This includes the municipalities in southwest Connecticut of Bethel, Bridgeport, Bridgewater, Brookfield, Danbury, Darien, Easton, Fairfield, Greenwich, Monroe, New Canaan, New Fairfield, New Milford, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford, Stratford, Trumbull, Weston, Westport, and Wilton.

In a letter dated March 14, 1991 from the Connecticut Department of Environmental Protection to the EPA Administrator, the State recommended that the area be classified as moderate nonattainment for CO. The moderate classification was based on monitoring data measured outside the Connecticut portion of the nonattainment area. Therefore, this area is subject to the requirements of section 187 of the Clean Air Act which sets forth requirements for CO nonattainment areas. The 1990 CAA required such areas to achieve the standard by December 31, 1995 as per CAA section 186 (a)(1). Two one year extensions were granted pursuant to section 186 (a)(4), and the entire New York—N. New Jersey—Long Island Area has been attaining the NAAQS since 1997.

The southwest Connecticut area makes up a portion of the New York—N. New Jersey-Long Island CO nonattainment area. However, EPA has determined that Connecticut can

redesignate to attainment while the remaining two states remain designated as nonattainment. Specifically, the counties in New York and New Jersey will remain designated as nonattainment due to shortfalls in their respective state implementation plans (see further discussion below).

However, since Connecticut has fulfilled all Clean Air Act requirements required to redesignate, the Connecticut portion of the tri-state nonattainment area can redesignate to attainment. Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on May 29, 1998, the State of Connecticut submitted a CO redesignation request and a maintenance plan for the southwest Connecticut area. Connecticut submitted evidence that a public hearing was held on April 21, 1998.

B. Evaluation Criteria

Rationale for Redesignating the Connecticut Portion of the New York—N. New Jersey—Long Island Area

EPA has concluded that the southwest Connecticut area can redesignate to attainment even though the New York and New Jersey portions of the nonattainment area will not be redesignating at this time. The entire tri-state area has the required two years of clean air quality data needed to allow an area to redesignate. Both New York and New Jersey have not, however, fulfilled all the Clean Air Act requirements for a CO State Implementation Plan (SIP). Therefore, New York and New Jersey cannot redesignate their CO nonattainment areas until all requirements are fulfilled. Connecticut has implemented all required control measures, including an enhanced inspection and maintenance program. EPA believes it is not reasonable in this case to prevent Connecticut from redesignating because of the failure of the other two states to fulfill their SIP obligations. To do so would have the effect of penalizing the one state of the three that has most diligently met its obligations under the Act.

As a safeguard to assure that redesignating in Connecticut will not eliminate the tracking of multi-state impacts in this nonattainment area, Connecticut has agreed in this redesignation request to provide a broad, early trigger for contingency measures. Connecticut has committed to treating an exceedance of the CO standard in any of the three States as a trigger for contingency measures in Connecticut, rather than a violation in the area (further discussed in the contingency measures section of this

notice.) An exceedance in any part of the nonattainment area will trigger Connecticut's commitment to assess its impact on the area of exceedance and to take an appropriate response, if any, to address the exceedance.

Current data suggest that Connecticut's contribution to CO exceedances in New York and New Jersey is not substantial. To support the fact that Connecticut has a minimal impact on CO concentrations in the other two states, EPA requested that Connecticut provide data on vehicle miles traveled (VMT) for Connecticut vehicles entering New York for work purposes. Approximately 1.1 percent of the total work trips entering the seven county New York CO nonattainment area originate from Connecticut (see the Technical Support Document for more information). Statistics on work trips to New Jersey that originate in Connecticut are not available at this time but would likely show a similar trend or even less contribution than in New York. Therefore, EPA concludes that vehicle trips originating in Connecticut make only a minor contribution to CO emissions in the New York and New Jersey portions of this nonattainment area.

Section 107(d)(3)(A) of the Act provides for EPA to redesignate portions of nonattainment areas, including "any area or portion of an area within the State or interstate area." Given the discretion provided under the Act to act on only a portion of an interstate nonattainment area, EPA is prepared to allow Connecticut to redesignate to attainment separately from New York and New Jersey. Not to do so would penalize Connecticut for other states' failure to meet their SIP obligations. Though the entire nonattainment area now has clean air data that support redesignation, Connecticut has committed to assessing its impact on any future CO exceedances anywhere in the area if air quality should deteriorate in the future. And finally, Connecticut's contribution to VMT and CO emissions in the other states is not substantial.

Requirements for Redesignation

Section 107(d)(3)(E) of the 1990 Clean Air Act Amendments provides five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

1. The area must have attained the applicable NAAQS;
2. The area must have a fully approved SIP under section 110(k) of CAA;
3. The air quality improvement must be permanent and enforceable;

4. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA;

5. The area must meet all applicable requirements under section 110 and Part D of the CAA.

C. Review of State Submittal

The Connecticut redesignation request for the southwest Connecticut area meets the five requirements of section 107(d)(3)(E) noted above. The following is a brief description of how the State has fulfilled each of these requirements.

1. Attainment of the CO NAAQS

Connecticut has quality-assured CO ambient air monitoring data which shows that the southwest Connecticut area has met the CO NAAQS. In addition, both New York and New Jersey have met the CO NAAQS but cannot redesignate due to shortfalls in their State implementation plans (as previously discussed). The request by Connecticut to redesignate is based on an analysis of quality-assured monitoring data which is relevant to the maintenance plan and to the redesignation request. To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard over at least two consecutive years. The ambient air CO monitoring data for calendar year 1995 through calendar year 1996 relied upon by Connecticut in its redesignation request shows no violations of the CO NAAQS, and the area has had no exceedances since then. Therefore, the area has complete quality assured data showing no more than one exceedance of the standard per year over at least two consecutive years and the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.9 and appendix C). Connecticut also committed to continue to monitor CO in the cities of Stamford and Bridgeport.

In addition, the State has used the MOBILE5A emission model and the CAL3QHC (version 2.0) dispersion model, and the modeling results show no violations of the CO NAAQS in the year 2010. No violations are expected throughout the maintenance period (through 2010).

2. Fully Approved SIP

Connecticut's CO SIP is fully approved by EPA as meeting all the requirements of Section 110 of the Act, including the requirement in Section 110(a)(2)(I) to meet all the applicable requirements of Part D (relating to nonattainment), which were due prior to the date of Connecticut's

redesignation request. The Southwest Connecticut CO SIP was fully approved by EPA on July 25, 1996 as meeting the CO SIP requirements in effect under the CAA. The 1990 CAA required that CO nonattainment areas achieve specific new requirements depending on the severity of the nonattainment classification. The requirements for the southwest Connecticut area include the development of an attainment demonstration, vehicle miles traveled forecasts, data providing proof that the standard has been achieved, the development of contingency measures and a maintenance plan, preparation of a 1990 emission inventory with periodic updates, and adherence to the conformity rules. These requirements are discussed in greater detail below.

New Source Review: Consistent with the October 14, 1994 EPA guidance from Mary D. Nichols entitled "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," EPA is not requiring as a prerequisite to redesignation to attainment EPA's full approval of a part D NSR program by Connecticut. Under this guidance, nonattainment areas may be redesignated to attainment notwithstanding the lack of a fully-

approved part D NSR program, so long as the program is not relied upon for maintenance. Connecticut has not relied on a NSR program for CO sources to maintain attainment. Although EPA is not treating a part D NSR program as a prerequisite for redesignation, it should be noted that EPA is in the process of taking final action on the State's revised NSR regulation. Since the southwest Connecticut area is being redesignated to attainment by this action, Connecticut's Prevention of Significant Deterioration (PSD) requirements will be applicable to new or modified sources in the southwest Connecticut area.

Emission Inventory: Under the Clean Air Act as amended, 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 inventory is designed to address actual CO emissions for the area during the peak CO season.

Section 187(a)(1) of the CAA requires that nonattainment plan provisions include a comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area, and this was

accomplished. Connecticut included the requisite inventory in the CO SIP, and the base year for the inventory was 1990 and used a three month CO season of November 1989 through January 1990. Stationary point sources, stationary area sources, on-road mobile sources, and non-road mobile sources of CO were included in the inventory. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992). In this action, EPA is approving the 1990 emissions inventory for the Connecticut portion of the New York—N. New Jersey—Long Island Area.

Connecticut submitted its 1993 periodic inventory to EPA in December, 1996, and this included estimates for CO emissions for all three previously designated CO nonattainment areas (i.e., the Hartford/ New Britain/Middletown area, the New Haven/Meriden Waterbury area, and the southwest Connecticut area). EPA is approving the 1993 CO periodic emission inventory with this redesignation request based on a technical review of the inventory. The following list presents a summary of the 1990 and 1993 CO peak season daily emissions estimates in tons per winter day (tpd) by source category for the southwest Connecticut area.

	Area	Non road	Mobile	Point	Total
1990 CO Emissions (tpd)	155.18	71.62	413.54	13.11	653.45
1993 CO Emissions (tpd)	188.93	73.54	277.29	2.64	542.40

Oxygenated fuel: On July 25, 1996, EPA approved in the **Federal Register** a SIP revision satisfying the requirements of section 211(m) of the CAA. This action approved Connecticut's oxygenated gasoline program as it applies to the southwestern control area. At this time, EPA determined that the length of the period prone to high ambient concentrations of CO for the New York-New Jersey-Connecticut CMSA to be from November 1 through the last day of February in this area. The scope of the Connecticut oxygenated gasoline program corresponds with this required control period, thereby satisfying that element of the section 211(m) requirements.

The oxygenated gasoline program is one in which all oxygenated gasoline must contain a minimum oxygen content of 2.7 percent by weight of oxygen. Under Section 211(m)(4) of the CAA, EPA also issued requirements for the labeling of gasoline pumps used to dispense oxygenated gasoline, as well as guidelines on the establishment of an appropriate control period. These

labeling requirements and control period guidelines may be found at 57 FR 47849, dated October 20, 1992.

Connecticut's oxygenated gasoline regulation requires the minimum 2.7 percent oxygen content in gasoline sold in the southwestern control area. The regulation also contains the necessary labeling regulations, enforcement procedures, and oxygenate test methods.

Conformity: Under section 176(c) of the CAA, states are required to submit revisions to their SIPs that include criteria and procedures to ensure that Federal actions conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as all other federal actions ("general conformity"). Congress provided for the State revisions to be submitted one year after the date of promulgation of final EPA conformity regulations. EPA promulgated revised

final transportation conformity regulations on August 15, 1997 (62 FR 43780) and final general conformity regulations on November 30, 1993 (58 FR 63214).

These conformity rules require that the States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to 40 CFR 51.390 of the transportation conformity rule, the State of Connecticut is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the federal rule by August 15, 1998. Similarly, pursuant to 40 CFR 51.851 of the general conformity rule, Connecticut was required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the federal rule by December 1, 1994. Connecticut has not yet submitted either of these conformity SIP revisions.

Although Connecticut has not yet adopted and submitted conformity SIP revisions, EPA believes it is reasonable to interpret the conformity requirements as not being applicable requirements for purposes of evaluating the redesignation request under section 107(d). The rationale for this is based on two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act applies to maintenance areas and thereby continues to apply after redesignation to attainment. Therefore, Connecticut remains obligated to adopt the transportation and general conformity rules even after redesignation. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and part D, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas.

Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in adopting state rules does not relieve an area from the obligation to implement conformity requirements. Areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under federal rules if state rules are not yet adopted, therefore, it is reasonable to view these requirements as not being applicable requirements for purposes of evaluating a redesignation request. Furthermore, Connecticut has continually fulfilled all of the requirements of the federal transportation conformity and general conformity rules, so it is not necessary that the State have either their transportation or general conformity rules approved in the SIP prior to redesignation to insure that Connecticut meets the substance of the conformity requirements. It should be noted that approval of Connecticut's redesignation request does not obviate the need for Connecticut to submit the required conformity SIPs to EPA, and EPA will continue to work with Connecticut to assure that State rules are promulgated.

On April 1, 1996, EPA modified its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) concerning the applicable requirements for purposes of reviewing a CO redesignation request

(61 FR 2918, January 30, 1996). Under this new policy, for the reasons discussed, EPA believes that the CO redesignation request may be approved notwithstanding the lack of submitted and approved state transportation and general conformity rules.

For transportation conformity purposes, the 2010 on-road emission totals outlined in the chart later in this notice is designated as the emissions budget for the southwest Connecticut CO nonattainment/ maintenance area.

3. Improvement in Air Quality Due to Permanent and Enforceable Measures

EPA approved Connecticut's CO SIP on July 25, 1996. Emission reductions achieved through the implementation of control measures contained in that SIP are enforceable. These measures were: a basic inspection and maintenance program, reformulated gasoline, the federal motor vehicle control program, and the tier 1 emissions standards for new cars and trucks (began in the 1994 model year). The air quality improvements are due to the permanent and enforceable measures contained in the CO SIP. EPA finds that the combination of certain existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed the area to attain the NAAQS.

4. Fully Approved Maintenance Plan Under Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. The contingency plan includes the investigation of traffic conditions that caused any exceedance of the nine parts per million CO NAAQS threshold, the implementation of the enhanced inspection and maintenance

program (which began implementation on January 1, 1998), and the low emission vehicle program (LEV). Although most of these programs are being implemented as measures to achieve the NAAQS for ground level ozone, they are not required in carbon monoxide nonattainment areas under the Clean Air Act and can therefore be used as contingency measures. In this notice, EPA is approving the State of Connecticut's maintenance plan for the southwest Connecticut area because EPA finds that Connecticut's submittal meets the requirements of section 175A. In addition, although vehicle miles traveled (VMT) may increase over the maintenance period, the decrease in emissions per vehicle will more than offset growth in VMT.

A. Attainment Emission Inventory

As previously noted, the State of Connecticut submitted a comprehensive inventory of CO emissions from the southwest Connecticut area. The inventory includes 1997 emissions from area, stationary, and mobile sources using 1993 as the base year for calculations. In addition, a conformity budget of 205 tons/day for on-road mobile sources is being established to ensure that total projected CO emission during the maintenance period do not exceed the total attainment year inventory. This budget supersedes all previous budgets and should be used for all future transportation conformity determination made by the regional planning agencies.

The 1997 inventory is considered representative of attainment conditions because the NAAQS was not violated during 1997 in the nonattainment area and the inventory was prepared in accordance with EPA guidance. Connecticut established CO emissions for the attainment year, 1997, as well as for the year 2010. The southwest Connecticut portion of the tri-state CO nonattainment area has measured compliance with the CO NAAQS since 1985. However, Connecticut is establishing the 1997 inventory as the attainment inventory because 1997 was the first year that the entire tri-state area compiled two years of violation free monitoring data necessary to redesignate to attainment. These estimates were derived from the State's 1993 emissions inventory. The State submittal contains the following data:

SOUTHWEST CONNECTICUT NONATTAINMENT AREA CO EMISSIONS INVENTORY SUMMARY

[Tons per day]

Year	Area	Non road	Mobile	Point	Total
1993	188.9	73.5	277.3	2.7	542.3
1997	189.4	73.7	216.1	2.7	481.9
2010	196.3	76.4	205.1	2.7	480.5

To fulfill the requirements of a redesignation request, a maintenance plan must extend out 10 years or more from the date of this notice. Therefore, this information had to be provided through the year 2010. This has fulfilled the 10 year requirement for maintenance plans.

B. Demonstration of Maintenance-Projected Inventories

Total CO emissions were projected from the 1993 base year out to 2010 as shown in the table in the preceding section. Connecticut projects that total CO emissions in 2010 will be less than CO emissions in the 1997 attainment year. These projected inventories were prepared in accordance with EPA guidance and included the benefits of federal motor vehicle controls, reformulated gasoline, and basic inspection and maintenance. These estimates are extremely conservative because they do not include oxygenated gasoline, enhanced inspection and maintenance, or the low emission vehicle program. Therefore, it is anticipated that the area will maintain the CO standard.

C. Verification of Continued Attainment

Continued attainment of the CO NAAQS in the southwest Connecticut area depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period, and the State will submit periodic inventories of CO emissions. In addition, 8 years from today the state is required to submit another 10 year maintenance plan covering the period from 2010 through 2020.

D. Contingency Plan

The level of CO emissions in the southwest Connecticut area will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS, although highly unlikely. Also, section 175A(d) of the CAA requires that the contingency provisions include a requirement that the State implement all measures contained in

the SIP prior to redesignation. Therefore, Connecticut has provided contingency measures in the event of a future CO air quality problem.

Connecticut has decided to implement contingency measures when an exceedance occurs even though they are only required if a violation occurs, therefore making the contingency plan more stringent than is required. An exceedance occurs when a monitor measures CO levels above nine parts per million as a mean concentration over an eight hour period, and the NAAQS is violated if there are two or more exceedances in a given year. The State believes that an early trigger will allow Connecticut to take early measures in response to the emission problem to avoid another exceedance and/or persistence of a problem that could lead to a NAAQS violation.

Connecticut has developed a three-stage contingency plan for the southwest Connecticut area. The first stage of the plan is to investigate the local traffic conditions where the exceedance occurred. The second stage is the implementation of the enhanced inspection and maintenance program as indicated earlier in this notice. The third is the low emission vehicle program, also as indicated earlier. In order to be adequate, the maintenance plan should include at least one contingency measure that will go into effect with a triggering event. Connecticut is relying largely on these three contingency measures, the later two of which will go into effect regardless of any triggering event, thereby fulfilling this requirement.

E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

5. Meeting Applicable Requirements of Section 110 and Part D

In section C.2. of this notice, EPA has set forth the basis for its conclusion that Connecticut has a fully approved SIP which meets the applicable

requirements of Section 110 and Part D of the CAA.

EPA is publishing this redesignation and approving the emissions budget for the southwest Connecticut area without prior proposal because the Agency views this as noncontroversial 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 should relevant adverse comments be filed. This action will be effective January 4, 1999, without further notice unless the Agency receives relevant adverse comments by December 2, 1998.

If the EPA receives such comments, then EPA will publish a timely withdrawal of the final rule informing the public that it will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposal. The EPA 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 redesignation will be effective on January 4, 1999, and no further action will be taken on the proposal.

II. Final Action

EPA is approving the southwest Connecticut CO redesignation because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation and EPA is approving the maintenance plan because it meets the requirements set forth in section 175A of the CAA.

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.

III. 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 Order 12875

Under E.O. 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, E.O. 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 E.O. 12875 do not apply to this rule.

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 E.O. 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 E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility

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 Sections 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 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. 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 January 4, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this 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 an action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed redesignation rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Ozone.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: October 21, 1998.

John P. DeVillars,

Regional Administrator, Region I.

40 CFR Parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401—7671q.

Subpart H—Connecticut

2. Section 52.374 is amended by revising the table to read as follows:

§ 52.374 Attainment dates for national standards.

* * * * *

Air quality control region	Pollutant					
	SO ₂		PM ₁₀	NO ₂	CO	O ₃
	Primary	Secondary				
AQCR 41: Eastern Connecticut Intrastate (See 40 CFR 81.183)	(a)	(a)	(a)	(a)	(a)	(d)
AQCR 42: Hartford-New Haven-Springfield Interstate Area (See 40 CFR 81.26).						
All portions except City of New Haven	(a)	(a)	(a)	(a)	(a)	(d)
City of New Haven	(a)	(a)	(c)	(a)	(a)	(d)
AQCR 43: New Jersey-New York-Connecticut Interstate Area (See 40 CFR 81.13)	(a)	(a)	(a)	(a)	(a)	(e)
AQCR 44: Northwestern Connecticut Intrastate (See 40 CFR 81.184)	(a)	(a)	(a)	(a)	(a)	(d)

- a. Air quality levels presently below primary standards or area is unclassifiable.
- b. Air quality levels presently below secondary standards or area is unclassifiable.
- c. December 31, 1996 (two 1-year extensions granted).
- d. November 15, 1999.
- e. November 15, 2007.

3. Section 52.376 is amended by revising paragraphs (a) and (d) and by adding paragraphs (e) and (f) to read as follows:

§ 52.376 Control strategy: Carbon Monoxide.

(a) Approval—On January 12, 1993, the Connecticut Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan for the 1990 base year emission inventory. The inventory was submitted by the State of Connecticut to satisfy Federal requirements under sections 172(c)(3) and 187(a)(1) of the Clean Air Act as amended in 1990, as a revision to the carbon monoxide State Implementation Plan for the Hartford/New Britain/Middletown carbon monoxide nonattainment area, the New Haven/Meriden/Waterbury carbon monoxide nonattainment area, and the Connecticut Portion of the New York—N. New Jersey—Long Island carbon monoxide nonattainment area.

* * * * *

(d) Approval—On January 17, 1997, the Connecticut Department of Environmental Protection submitted a request to redesignate the New Haven/

Meriden/Waterbury carbon monoxide nonattainment area to attainment for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a base year emission inventory for carbon monoxide, a demonstration of maintenance of the carbon monoxide NAAQS with projected emission inventories to the year 2008 for carbon monoxide, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the carbon monoxide NAAQS (which must be confirmed by the State), Connecticut will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measure includes reformulated gasoline and the enhanced motor vehicle inspection and maintenance program. The redesignation request establishes a motor vehicle emissions budget of 229 tons per day for carbon monoxide to be used in determining transportation

conformity for the New Haven/Meriden/Waterbury area. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

(e) Approval—In December, 1996, the Connecticut Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan for the 1993 periodic emission inventory. The inventory was submitted by the State of Connecticut to satisfy Federal requirements under section 187(a)(5) of the Clean Air Act as amended in 1990, as a revision to the carbon monoxide State Implementation Plan.

(f) Approval—On May 29, 1998, the Connecticut Department of Environmental Protection submitted a request to redesignate the Connecticut portion of the New York-N. New Jersey-Long Island carbon monoxide nonattainment area to attainment for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a periodic emission inventory for carbon

monoxide, a demonstration of maintenance of the carbon monoxide NAAQS with projected emission inventories to the year 2010 for carbon monoxide, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records an exceedance of the carbon monoxide NAAQS (which must be confirmed by the State), Connecticut will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measure includes

investigating local traffic conditions, the enhanced motor vehicle inspection and maintenance program, and the low emissions vehicles program (LEV). The redesignation request establishes a motor vehicle emissions budget of 205 tons per day for carbon monoxide to be used in determining transportation conformity in the Connecticut Portion of the New York—N. New Jersey—Long Island Area. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

2. The table in 81.307 entitled “Connecticut-Carbon Monoxide” is revised to read as follows:

§ 81.307 Connecticut.

* * * * *

CONNECTICUT-CARBON MONOXIDE

Designated Area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Hartford-New Britain-Middletown Area				
Hartford County (part) Bristol City, Burlington Town, Avon Town, Bloomfield Town, Canton Town, E. Granby Town, E. Hartford Town, E. Windsor Town, Enfield Town, Farmington Town, Glastonbury Town, Granby Town, Hartford City, Manchester Town, Marlborough Town, Newington Town, Rocky Hill Town, Simsbury Town, S. Windsor Town, Suffield Town, W. Hartford Town, Wethersfield Town, Windsor Town, Windsor Locks Town, Berlin Town, New Britain City, Plainville Town, and Southington Town	1/2/96	Attainment .....	.....	.....
Litchfield County (part). Plymouth Town	1/2/96	Attainment .....	.....	.....
Middlesex County (part) Cromwell Town, Durham Town, E. Hampton Town, Haddam Town, Middlefield Town, Middletown City, Portland Town, E. Haddam Town	1/2/96	Attainment .....	.....	.....
Tolland County (part) Andover Town, Bolton Town, Ellington Town, Hebron Town, Somers Town, Tolland Town, and Vernon Town	1/2/96	Attainment .....	.....	.....
New Haven—Meriden—Waterbury Area				
Fairfield County (part) Shelton City	12/4/98	Attainment .....	.....	.....
Litchfield County (part) Bethlehem Town, Thomaston Town, Watertown, Woodbury Town	12/4/98	Attainment .....	.....	.....
New Haven County	12/4/98	Attainment .....	.....	.....
New York-N. New Jersey-Long Island Area				
Fairfield County (part) All cities and townships except Shelton City	1/4/99	Attainment .....	.....	.....
Litchfield County (part) Bridgewater Town, New Milford Town	1/4/99	Attainment .....	.....	.....
AQCR 041 Eastern Connecticut Intrastate Middlesex County (part) All portions except cities and towns in Hartford Area New London County Tolland County (part) All portions except cities and towns in Hartford Area Windham County	.....	Unclassifiable/Attainment ...	.....	.....
AQCR 044 Northwestern Connecticut Intrastate .....	.....	Unclassifiable/Attainment ...	.....	.....

CONNECTICUT-CARBON MONOXIDE—Continued

Designated Area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Hartford County (part) Hartland Township Litchfield County (part) All portions except cities and towns in Hartford, New Haven, and New York Areas				

¹ This date is November 15, 1990, unless otherwise noted.

[FR Doc. 98-29304 Filed 10-30-98; 8:45 am]
BILLING CODE 6560-50-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PARTS 2 AND 90

[WT Docket No. 96-86; FCC 98-191]

The Development of Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, Establishment of Rules and Requirements for Priority Access Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission (Commission) adopted a *First Report and Order* (“*First Report*”) contemporaneously with a *Third Notice of Proposed Rulemaking* that is summarized elsewhere in this edition of the Federal Register. In the *First Report*, the Commission amends its rules relating to public safety communications in the 764-806 MHz band (“700 MHz band”) that the Commission previously reallocated for public safety services and in general. This action commences the process of assigning licenses for frequencies in the 700 MHz band and addresses an urgent need for additional public safety radio spectrum and the need for nationwide interoperability among local, state, and federal entities. By this action, the Commission also takes additional steps toward achieving its goals of developing a flexible regulatory framework to meet vital current and future public safety communications needs and ensuring that sufficient spectrum to accommodate efficient, effective telecommunications facilities and services will be available to satisfy public safety communications needs into the 21st century.

DATES: Effective January 4, 1999, except for §§ 90.523, 90.527, 90.545, and

90.551 which contain information collection requirements that are not effective until approved by the Office of Management and Budget. FCC will publish a document in the **Federal Register** announcing the effective date for those sections. Written comments on these revised and modified information collection requirements should be submitted on or before December 2, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments on the revised information collection requirements to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov., and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, D.C. 20503, or via the internet to fain_t@eop.gov.

FOR FURTHER INFORMATION CONTACT: Peter Daronco or Michael Pollak, at the Public Safety & Private Wireless Division, (202) 418-0680. For additional information concerning the information collections contained in this *First Report*, contact Judy Boley at (202) 418-0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *First Report* in WT Docket No. 96-86, adopted on August 6, 1998, and released on September 29, 1998, contemporaneously with a *Third Notice of Proposed Rulemaking* (“*Third Notice*”) in WT Docket No. 96-86 (collectively FCC 98-191). The *Third Notice* is summarized elsewhere in this edition of the **Federal Register**. The full text of the *First Report and Third Notice* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission’s duplicating contractor, International

Transcription Services, 1231 20th Street, NW, Washington, DC 20036, 202-857-3800. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418-0260, TTY (202) 418-2555, or at mcontee@fcc.gov. The complete (but unofficial) text is also available under the name “fcc98191.wp” on the Commission’s Internet site at <http://www.fcc.gov/Bureaus/Wireless/Orders/1998/index.html>.

Paperwork Reduction Act

The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (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 Commissions 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: 3060-0221.
Title: 90.155 Time in which station must be placed in operation.
Form No.: N/A.
Type of Review: Revision of a previously approved collection.