ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT057–7216a; FRL–7114–9]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This action approves Connecticut's one-hour Ozone Attainment Demonstration for the Connecticut portion of the New York-Northern New Jersey-Long Island (NY–NJ–CT) severe ozone nonattainment area. EPA is also approving a variety of enforceable commitments associated with the attainment demonstration, Connecticut's post-1999 rate-of-progress (ROP) plan SIP and associated ROP contingency measures, and a reasonably available control measure (RACM) analysis submitted by the state. The post-1999 ROP plan and attainment demonstration establish 2002, 2005 and 2007 volatile organic compound (VOC) and nitrogen oxide (NO_X) motor vehicle emissions budgets for the area for use in transportation conformity. EPA is also approving these budgets.

Along with approving the commitments for the Connecticut portion of the New York-Northern New Jersey-Long Island (NY–NJ–CT) severe ozone nonattainment area, EPA is also approving a modification to the previously approved enforceable commitment associated with the attainment demonstration for the Greater Connecticut ozone nonattainment area. That modification changes the date for submittal of the mid-course review of the attainment status of the one-hour ozone nonattainment area from December 31, 2003 to December 31, 2004.

EFFECTIVE DATE: This rule becomes effective on January 10, 2002.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection by appointment weekdays from 9 a.m. to 4 p.m., at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, 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: Richard P. Burkhart, (617) 918–1664.

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

This supplementary information section is organized as follows:

I. What Connecticut SIP revisions are the topics of this action and what previous action has EPA taken on these SIP revisions?
II. What are the requirements for approval of the attainment demonstration?
III. What comments did EPA receive on the proposed approvals and how have we responded?
IV. Final EPA Action
V. Administrative Requirements

I. What Connecticut SIP Revisions Are the Topics of This Action and What Previous Action Has EPA Taken on These SIP Revisions?

A. Attainment Demonstration and Enforceable Commitments

EPA is approving an attainment demonstration SIP submitted on September 16, 1998 by the Connecticut Department of Environmental Protection (DEP) for the Connecticut portion of the NY–NJ–CT one-hour severe ozone nonattainment area, as modified on February 8, 2000 by an addendum. Connecticut also submitted additional SIP elements for its attainment demonstration on October 15, 2001. All three submittals are discussed in this section.

EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut's portion of the NY–NJ–CT severe area's ozone attainment demonstration on December 16, 1999 (64 FR 70348). In that action, EPA proposed to conditionally approve the ozone attainment demonstration submitted by the state. We identified the following items in the December 16, 1999 rulemaking as conditions upon which we would base our final approval: (1) Submission of adequate motor vehicle emission budgets for both VOC and NO_X; (2) submission of control measures necessary to meet the ROP requirement from 1999 to the attainment year of 2007, including ROP target level calculations for 2002, 2005 and 2007; (3) a commitment to submit additional control measures to make up for the projected need for additional controls to ensure attainment of the one-hour ozone standard by November 2007; and (4) a commitment to perform a mid-course review. EPA also proposed, in the alternative, to disapprove the attainment demonstration if Connecticut did not submit these items. Also, on December 16, 1999, EPA proposed to approve and/or conditionally approve or disapprove in the alternative the attainment demonstration SIPs for nine other areas in the eastern United States (64 FR 70317).

On February 22, 2000 (65 FR 8703), EPA published a notice of availability announcing two guidance memoranda relating to the ten one-hour ozone attainment demonstrations (including the Connecticut portion of the NY–NJ–CT severe area) proposed for approval or conditional approval on December 16, 1999. The guidance memoranda are entitled: ''Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations,'' dated November 3, 1999, and ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas,'' dated November 30, 1999.

On July 28, 2000 (65 FR 46383), EPA published a notice of supplemental proposed rulemaking relating to the ten one-hour ozone attainment demonstrations (including the Connecticut portion of the NY–NJ–CT severe area) proposed for approval or conditional approval on December 16, 1999. In the supplemental notice, EPA clarified and expanded on two issues relating to the motor vehicle emissions budgets in the attainment demonstration SIPs. In addition, EPA reopened the comment period to take comment on those two issues and to allow comment on any additional materials that were placed in the dockets for the ten proposed actions close to or after the initial comment period closed on February 14, 2000.

EPA received comments in response to our December 16, 1999 proposal and the supplemental notice. We address the comments relevant to the Connecticut portion of the NY–NJ–CT severe attainment demonstration in section IV below.

On February 8, 2000, Connecticut DEP submitted an addendum to the ozone attainment demonstration for the Connecticut portion of the NY–NJ–CT severe nonattainment area, which contains certain enforceable commitments. The addendum was submitted in response to requirements for full approval EPA articulated in our December 16, 1999 (64 FR 70348) proposed rulemaking on the attainment demonstration SIP. On June 4, 2001, Connecticut DEP submitted a number of outstanding SIP elements for approval via parallel processing. Included in this submittal were proposed revisions to some of the enforceable commitments made on February 8, 2000.

On August 10, 2001 (66 FR 42172), EPA proposed full approval of Connecticut's one hour ozone attainment demonstration for the state's portion of the NY–NJ–CT severe area and of various enforceable commitments. EPA received no comments on its August 10, 2001 proposal to approve the Connecticut one hour ozone attainment demonstration.

On October 15, 2001, Connecticut submitted final versions of the SIP amendments sent to EPA on June 4, 2001.

In this action, EPA is approving the attainment demonstration, the control measures and the final enforceable commitments made by the state. Those enforceable commitments from the February 8, 2000 and October 15, 2001 submittals include: (1) A commitment to perform a mid-course review of the attainment status of the one-hour ozone nonattainment area by December 31, 2004; (2) a commitment to adopt and submit by October 31, 2001 additional necessary regional control measures to offset the shortfall in emission reductions needed to attain the one-hour ozone standard by November 2007; and (3) a commitment to adopt and submit by October 31, 2001, additional necessary intrastate control measures to offset the shortfall in emission reductions needed to attain the one-hour ozone standard by November 2007. With regard to the specific control measures that the state will adopt to offset the shortfall in emission reductions, the Connecticut DEP has committed to adopt and submit: (1) Additional restrictions on VOC emissions from mobile equipment and repair operations and (2) requirements to reduce VOC emissions from certain consumer products.

B. Post-1999 Rate-of-Progress Emission Reduction Plan

The post-1999 ROP plan documents how Connecticut complied with the provisions of section 182(c)(2)(B) of the Act through 2007. This section of the Act requires that states containing certain ozone nonattainment areas develop strategies to reduce emissions of the pollutants that react to form ground level ozone.

EPA is approving the post-1999 ROP emission reduction plan the State of Connecticut submitted on October 15, 2001 for the state's portion of the NY–NJ–CT severe ozone nonattainment area as a revision to Connecticut's SIP. For purposes of meeting the ROP requirements, Connecticut, New York and New Jersey each submitted a plan to reduce emissions within their own portion of the nonattainment area. EPA is taking action today only on the Connecticut portion of the NY–NJ–CT post-1999 plan. EPA will take action on the New York and New Jersey post-99 plans separately. On August 10, 2001 (66 FR 42178), EPA published a proposed rulemaking for the State of Connecticut's proposed post-99 plan that the state submitted for approval via parallel processing on June 4, 2001. EPA received no comments regarding its proposal to approve the Connecticut post-1999 ROP plan.

C. Transportation Conformity Budgets

Transportation conformity is required by section 176(c) of the Clean Air Act (CAA or Act), and EPA's transportation conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. States are required to establish motor vehicle emissions budgets in any control strategy SIP they submit for attainment and maintenance of the national ambient air quality standards.

In the December 16, 1999 proposed rulemaking on the Connecticut attainment demonstration, EPA proposed, in the alternative, to disapprove the attainment demonstration if Connecticut did not submit adequate motor vehicle emissions budgets and a commitment to adopt and submit additional control measures to make up for the projected need for additional controls to ensure attainment of the one-hour ozone standard by November 2007. On February 8, 2000, the Connecticut DEP submitted revisions to the NY–NJ–CT attainment demonstration which contained 2007 motor vehicle emissions budgets for VOC and NO_X, as well as the necessary enforceable commitment.

A public comment period was held on these budgets when they were posted at *www.epa.gov/oms/transp/conform/currsips.htm.* The public comment period began on February 14, 2000, and closed on March 20, 2000. EPA sent a letter to Connecticut DEP on May 31, 2000 finding these budgets adequate for use in transportation conformity determinations. EPA received no public comments during that public comment period.

On June 16, 2000 (65 FR 37778), EPA notified the public that we had found the 2007 VOC and NO_X motor vehicle emission budgets Connecticut submitted on February 8, 2000 adequate for conformity purposes. These budgets became effective on July 3, 2000 (65 FR 37779).When we originally proposed approval of the Connecticut portion of the NY–NJ–CT severe area attainment demonstration on December 16, 1999, however, EPA did receive comments that opposed EPA determining budgets adequate for transportation conformity purposes. EPA responded to all of those comments before determining the 2007 budgets adequate. A copy of our response to comments is available at *http://www.epa.gov/oms/transp/conform/resp_ct.pdf.*

In this notice, EPA is approving into the SIP the 2007 budgets for the Connecticut portion of the NY–NJ–CT severe area. EPA is also approving two enforceable commitments related to the conformity budgets. Those are: (1) a commitment to revise the attainment-level 2007 motor vehicle emissions budgets within one year of the date that EPA releases the final version of our motor vehicle emissions model, MOBILE6; and (2) a commitment to recalculate and submit revised motor vehicle emissions budgets if any additional motor vehicle control measures are adopted to address the shortfall.

We are only approving the 2007 budgets to be used for conformity purposes until Connecticut submits revised 2007 motor vehicle emissions budgets using MOBILE6 and/or revised 2007 budgets associated with mobile source measures to fill the shortfall and we have found them adequate. At that point, our approval of the 2007 budgets will terminate and the new adequate 2007 budgets will apply for conformity purposes. For more information, please see the proposal published on August 10, 2001 (66 FR 42172).

On July 28, 2000 (65 FR 46383), EPA published a notice of supplemental proposed rulemaking relating to ten one-hour ozone attainment demonstrations (including the Connecticut portion of the NY–NJ–CT severe area) proposed for approval or conditional approval on December 16, 1999. In the supplemental notice, EPA clarified and expanded on two issues relating to the motor vehicle emissions budgets in the attainment demonstration SIPs. In addition, EPA reopened the comment period to take comment on those two issues and to allow comment on any additional materials that were placed in the dockets for the ten proposed actions close to or after the initial comment period closed on February 14, 2000.

On June 4, 2001, Connecticut DEP submitted for parallel processing its proposed post-1999 ROP plan which contains 2002, 2005 and 2007 motor

vehicle emissions budgets for nitrogen oxides (NO_X) and volatile organic compounds (VOCs) for the State's portion of the NY–NJ–CT severe area. The 2007 motor vehicle emissions budgets contained in the Connecticut post-1999 ROP plan match the conformity budgets contained in the state's attainment demonstration submitted on February 15, 2000. The 2002 and 2005 motor vehicle emissions budgets are new budgets established by the post-1999 ROP plan. The following table contains these NO_X and VOC motor vehicle emissions budgets in units of tons per summer day:

TABLE 1.—MOTOR VEHICLE EMISSIONS BUDGETS FOR USE IN CONFORMITY

	2002	2005	2007
VOC (tpsd)	15.20	11.42	9.69
NO_X (tpsd)	38.39	29.01	23.68

EPA opened a 30-day public comment period for these budgets on its conformity Web site on August 10, 2001 (see *http://www.epa.gov/otaq/transp/conform/currsips.htm).* The comment period closed on September 10, 2001, and EPA did not receive any comments on these conformity budgets. On November 1, 2001, EPA issued a letter to Connecticut determining that these budgets were adequate for use in transportation conformity determinations. The 2002 and 2005 motor vehicle emissions budgets become effective December 26, 2001.

On October 15, 2001, Connecticut DEP submitted its final post-1999 ROP plan which contains 2002, 2005 and 2007 motor vehicle emissions budgets for nitrogen oxides (NO_X) and volatile organic compounds (VOCs) in final form for the Connecticut portion of the NY–NJ–CT severe area. These budgets are identical to those submitted for parallel processing and posted for comment on EPA's Web site. In this notice, in addition to approving the 2007 motor vehicle emissions budgets, EPA is approving into the SIP the 2002 and 2005 motor vehicle emissions budgets for VOC and NO_X from the post-1999 plan.

D. Reasonably Available Control Measures (RACM)

EPA is approving as a revision to Connecticut's SIP the RACM analysis plan the State of Connecticut finalized on October 15, 2001 for the State's portion of the NY–NJ–CT severe ozone nonattainment area.

On August 10, 2001 (66 FR 42178), EPA published a proposed rulemaking for Connecticut's proposed RACM plan that the state submitted for approval via parallel processing on August 2, 2001. EPA received no comments regarding its proposal to approve the Connecticut RACM plan.

II. What Are the Requirements for Approval of the Attainment Demonstration?

A. Attainment Demonstration and Budgets

On February 8, 2000, Connecticut DEP submitted an addendum to the ozone attainment demonstrations for the Connecticut portion of the NY–NJ–CT severe nonattainment area. Connecticut submitted the addendum in response to EPA's requirements for full approval as explained in our proposed rulemaking on the attainment demonstration SIP. Connecticut DEP held a public hearing on the addendum on January 6, 2000.

The February 8, 2000 addendum contained 2007 VOC and NO_X motor vehicle emissions budgets for the Connecticut portion of the NY–NJ–CT severe nonattainment area. Connecticut calculated the motor vehicle emissions budgets to be consistent with requirements Connecticut is relying on in its attainment demonstration for the Connecticut portion of the NY–NJ–CT severe area. Connecticut also incorporated credit for the Tier 2/sulfur program in calculating the emissions budgets consistent with the November 8, 1999 memorandum entitled ''1-Hour Ozone Attainment Demonstrations and Tier 2/Sulfur Rulemaking'' from Lydia Wegman, Office of Air Quality Planning and Standards and Merrylin Zaw-Mon, Office of Mobile Sources. The motor vehicle emissions budgets for 2007 for VOC and NO_X submitted by Connecticut are shown in Table 1.

All States whose attainment demonstration includes the effects of the Tier 2/sulfur program have committed to revise and resubmit their motor vehicle emissions budgets after EPA releases the MOBILE6 model. On February 8, 2000, Connecticut submitted a commitment to revise the 2007 motor vehicle budgets in the attainment demonstration within one year of EPA's release of the MOBILE6 model. In this action, EPA is approving this commitment to revise the 2007 motor vehicle budgets in the attainment demonstration within one year of EPA's release of the MOBILE6 model.

As we proposed in our July 28, 2000 SNPR (65 FR 46383), today's final approval of the budgets contained in the 2007 attainment plan will be effective for conformity purposes only until such time as revised motor vehicle emissions budgets are submitted (pursuant to the commitment to submit revised budgets using the MOBILE6 model within one year of EPA's release of that model) and we have found those revised budgets adequate. We are only approving the attainment demonstration and its current budgets because Connecticut has provided an enforceable commitment to revise the 2007 budgets using the MOBILE6 model within one year of EPA's release of that model. Therefore, we are limiting the duration of our approval of the current 2007 budgets only until such time as the revised budgets are found adequate. Those revised 2007 budgets, once found adequate, will be more appropriate than the budgets we are approving for conformity purposes for the time being.

Similarly, EPA is only approving the 2007 attainment demonstration and its current 2007 budgets because Connecticut has provided an enforceable commitment to submit new budgets as a revision to the attainment SIP consistent with any new measures submitted to fill any shortfall, if the additional control measures affect on-road motor vehicle emissions. Therefore, we are limiting the duration of our approval of the current 2007 budgets only until such time as any such revised budgets are found adequate. Those revised 2007 budgets, once found adequate, will similarly be more appropriate than the budgets we are approving for conformity purposes for the time being.

The Addendum also includes Connecticut's analysis of the future air quality design value for the Connecticut portion of the NY–NJ–CT severe nonattainment area, which is identical to the EPA analysis found in the Technical Support Document to the notice of proposed rulemaking published December 16, 1999. This analysis supports the contention outlined in the notice of proposed rulemaking that additional emission controls beyond the benefits of the Tier 2/Sulfur program are needed for the Connecticut portion of the NY–NJ–CT severe area to demonstrate attainment.

B. Enforceable Commitments to Adopt Additional Control Measures

In our December 16, 1999 proposed conditional approval of Connecticut's ozone attainment demonstration, EPA said we did not believe the attainment analysis submitted at that time for NY–NJ–CT area demonstrates attainment by the year 2007. EPA's analysis to determine how much additional emission reduction is needed before we can approve Connecticut's attainment demonstration showed an ozone shortfall of 5 ppb for the NY–NJ–CT

severe nonattainment. In other words, our analysis predicted that the NY–NJ–CT area would remain 5 ppb over the NAAQS if Connecticut and its neighboring states do not achieve emission reductions beyond those included in the attainment demonstrations submitted by the states of Connecticut, New Jersey and New York. From this 5 ppb shortfall value we developed additional local emission reduction targets, and we recommended that, at a minimum, an additional 3.8% VOC and 0.3% NO_X reduction from base year 1990 inventories would be necessary to approve the attainment demonstration for this area. These additional reductions were to be over and above the CAA measures required for this area and the measures already relied on in the demonstration of attainment. Additionally, since reductions from EPA's Tier 2 tailpipe and low sulfur-in-fuel standards were already included in the EPA analysis, the percent reduction figures were also over and above Tier 2/Sulfur reductions. EPA directed the three states within the nonattainment area to work together to achieve these reductions.

In the February 8, 2000 addendum to the attainment demonstration for the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area, Connecticut included enforceable commitments to submit control measures for additional emission reductions to make-up for the shortfall outlined in EPA's December 16, 1999 proposed conditional approval. Specifically, Connecticut committed to: (1) Adopt and submit by December 31, 2000 additional NO_X limits applicable to municipal waste combustors (MWCs); (2) adopt and submit by October 31, 2001 additional necessary regional control measures to offset the shortfall in emission reductions necessary to attain the one-hour ozone standard by November 2007; and (3) adopt and submit by October 31, 2001, additional necessary intrastate control measures to offset the emission reduction shortfall in order to attain the one-hour ozone standard by November 2007.

The final approval of the Connecticut DEP regulation that reduces emissions of NO_X from Municipal Waste Combustors (MWC) below previously required levels was granted by EPA Region I's Regional Administrator on November 9, 2001. The approved MWC rule will be promulgated at 40 CFR 52.370(c)(90). The additional NO_X reductions that will be achieved by this regulation were not assumed in the attainment demonstration modeling submitted by the state and are thus eligible to fill the emission reduction shortfall necessary for attainment. Since we have already approved this rule, we will not take action on the February 8, 2000 commitment regarding the MWC rule.

In our August 10, 2001 proposed full approval rulemaking notice on the attainment demonstration, we indicated that the shortfall in emission reductions for the Connecticut portion of the nonattainment area was 5.3 tpsd of VOC and 0.5 tpsd of NO_X. Due to a correction we made to Connecticut's estimate of base year VOC emissions from architectural and industrial maintenance (AIM) coatings, the VOC shortfall is now considered to be 5.4 tpsd. In its October 15, 2001 submittal, Connecticut DEP outlines how the individual strategies it is committing to pursue will be sufficient to achieve reductions that will eliminate the shortfall.

In its June 4, 2001 submittal to EPA, Connecticut articulated that it has narrowed the list of further possible control measures for filling the shortfall to those for which model rules were developed by the Ozone Transport Commission (OTC). The OTC model rules include measures to reduce VOC from consumer products, portable fuel containers, AIM coatings, mobile equipment refinishing and repair operations, and solvent cleaning operations. The OTC model rules also include additional NO_X controls for fuel combustion sources, including gas turbines, stationary reciprocating engines, and industrial boilers. These model rules would achieve reductions beyond those already assumed in Connecticut's SIP for some of these measures. At the public hearing Connecticut DEP held on July 10, 2001, the DEP solicited public comment on each of the model rules to determine those that may be most appropriate for adaptation into Connecticut's regulations to address the shortfalls EPA identified for attaining the one-hour ozone standard and to make progress toward attaining the eight-hour ozone standard.

Subsequent to the public hearing, the Connecticut DEP has decided it would pursue adoption of: (1) additional restrictions on VOC emissions from mobile equipment refinishing and repair operations; and (2) requirements to reduce VOC emissions from certain consumer products. In its October 15, 2001 submittal, Connecticut is committing to pursue adoption of regulations for these two categories. Connecticut has proposed a rule on mobile equipment refinishing and repair operations and held a public hearing on it on September 15, 2001. The rule is scheduled to be adopted by the end of 2001. Connecticut DEP has begun the adoption process for the rule covering consumer products. Both of these rules will be adopted and implemented within a time period fully consistent with the NY–NJ–CT nonattainment area attaining the standard by its 2007 attainment date. In today's action, EPA is approving the enforceable commitments Connecticut DEP submitted to adopt control measures to offset the shortfall in emission reductions necessary to attain the one-hour ozone standard by November 2007.

C. Mid-Course Review

A mid-course review (MCR) for the NY–NJ–CT severe area is a reassessment of modeling analyses and more recent monitored data to determine if the prescribed control strategy is resulting in emission reductions and air quality improvements needed to attain the ambient air quality standard for ozone as expeditiously as practicable.

EPA believes that a commitment to perform a MCR is a critical element of the weight of evidence (WOE) analysis for the attainment demonstration on which EPA proposed action in December 1999. To approve the attainment demonstration SIP for the Connecticut portion of the New York City area, EPA believes that the state must have an enforceable commitment to perform a MCR.

Originally, the Connecticut DEP submitted an enforceable commitment with its attainment demonstration on September 16, 1998. The commitment made was to submit a MCR in the 2001/2002 time frame and an additional MCR in 2005. In our December 16, 1999 proposed conditional approval, EPA suggested that Connecticut revise its commitment to provide for the MCR immediately following the 2003 ozone season, so that the MCR would reflect regional NO_X reductions that were scheduled to occur by May 1, 2003 under the NO_X SIP call. Connecticut included this commitment in its February 8, 2000 submittal.

In the summer of 2000, the Court of Appeals for the D.C. Circuit issued an order providing that EPA could not mandate that states require source compliance with rules adopted to meet the SIP call before May 2004. Thus, consistent with more recent advice from us, and with the original intent that the MCR reflect the SIP call reductions, Connecticut has revised the submittal date of the MCR from December 31, 2003 to December 31, 2004. This new due date, and the logic behind its choice, also effects the Greater Connecticut ozone nonattainment area.

We have reviewed the commitment and approve this SIP revision for both the Connecticut portion of the NY–NJ–CT severe nonattainment area and the Greater Connecticut area. This new date is consistent with the EPA recommendation for submittal of the mid-course review on the attainment demonstration and should provide the most robust assessment of whether the state is on-track to attain the 1-hour ozone standard by its attainment date.

D. Post-1999 Rate-of-Progress Plan

This section is organized as follows:

1. What action is EPA taking today?

2. What are Connecticut's target emission levels for VOC and NO_X, and will the state's emissions be below these targets?

3. What control strategy will Connecticut use to meet its emission target levels?

4. How did Connecticut meet the contingency measure requirement?

1. What Action Is EPA Taking Today?

EPA is approving the post-1999 rate-of-progress (ROP) emission reduction plan the State of Connecticut submitted for the state's portion of the NY–NJ–CT severe ozone nonattainment area as a revision to Connecticut's SIP. For purposes of meeting the ROP requirements, Connecticut, New York and New Jersey each submitted a plan to reduce emissions within their own portion of the nonattainment area. EPA is taking action today only on the Connecticut portion of the NY–NJ–CT post-1999 plan.

The post-1999 ROP plan documents how Connecticut complied with the provisions of section 182 (c)(2)(B) of the Act through 2007. This section of the Act requires that states containing certain ozone nonattainment areas develop strategies to reduce emissions of the pollutants that react to form ground level ozone.

On August 10, 2001 (66 FR 42178), EPA published a proposed rulemaking on the State of Connecticut's ROP demonstration for 2002, 2005 and 2007. EPA received no comments regarding its proposal to approve the Connecticut post-1999 ROP plan.

2. What Are Connecticut's Target Emission Levels for VOC and NO_X, and Will the State's Emissions Be Below These Targets?

Connecticut's 2002, 2005, and 2007 target emission levels are shown in table 2, along with the state's projected, controlled emission levels. These target emission levels represent the maximum amount of emissions that Connecticut can emit in each year, given the state's post-1999 emission reduction requirements.

TABLE 2.—TARGET LEVELS AND PROJECTED, CONTROLLED EMISSIONS

Description	2002 VOC (tpsd)	2002 NO_X (tpsd)	2005 VOC (tpsd)	2005 NO_X (tpsd)	2007 VOC (tpsd)	2007 NO_X (tpsd)
Target Level	94.8	115.2	82.7	114.9	76.8	112.9
Projected Controlled Emissions	89.2	98.2	80.4	83.1	76.8	76.8

The emission targets shown in Table 2 reflect a minor adjustment we made to Connecticut's 1990 emission estimate for AIM coatings, which we discuss in further detail below. This modification does not affect the state's ability to meet the statutory ROP requirement.

3. What Control Strategy Will Connecticut Use To Meet Its Emission Target Levels?

EPA's August 10, 2001 proposed approval action outlined the control strategy that Connecticut used to meet its emission target levels. In summary, the state's control strategy consists of the emission reductions from the continued enforcement of measures EPA approved as part of the State's 15 percent and post-1996 (through 1999) emission reduction plans (64 FR 12015 (March 10, 1999) and 65 FR 62624 (October 19, 2000), respectively), coupled with emission reductions from the following programs: Connecticut's NO_X budget program affecting large point sources; municipal waste combustor (MWC) emission limits; federal non-road engine standards; phase II of the reformulated gasoline program; reductions from the final cut-points for the state's enhanced automobile inspection and maintenance program; reductions from the combined effect of tier II automobile standards and low sulfur in gasoline requirements; and phase I controls on heavy duty diesel engines. All these control measures are approved as part of Connecticut's SIP or are otherwise enforceable under the Act.

We agree with Connecticut's determination of emission reductions from its NO_X and VOC control strategy, with the minor exception of the architectural and industrial maintenance coatings (AIM) category that was part of the state's 15 percent plan. We agree with the 20 percent reduction Connecticut applied to its projected emissions for this source category due to a federal rule on these coatings. However, because Connecticut used different emission estimation methodologies to calculate its 1990 AIM emissions (used in development of the target levels) and its 1996 AIM emissions (used to project emissions), EPA concluded that an overstatement of reductions occurred due to these differing emission estimation techniques. To correct this discrepancy, we applied the more accurate 1996 AIM coatings emissions estimation methodology to Connecticut's 1990 base year estimate, and determined that Connecticut's base year emissions (the ''ROP'' inventory) for VOCs should be lowered from 144.0 tpsd to 142.3 tpsd. Inserting the correct 1990 emission estimate into the State's ROP calculation yields the emission target levels shown above in Table 2. It is important to note that correcting this element of Connecticut's baseline inventory has no effect on the choices the state has made in designing its ROP plan and contingency measures. Connecticut has sufficient emission reductions beyond what is required for these SIP elements such that this adjustment simply reduces that surplus slightly.

4. How Did Connecticut Meet the Contingency Measure requirement?

Connecticut has met its contingency measure obligation by using surplus emission reductions generated by the control measures in its post-1999 ROP plan. EPA policy allows use of surplus reductions that will occur in years after the ROP plan from already adopted measures to serve as contingency measures for ROP plans. We are approving Connecticut's demonstration that it meets the contingency measure provision of section 182(c)(9) of the Act, which requires contingency measures for serious and above milestone failures in ozone nonattainment areas classified serious and above.

Connecticut still must meet the contingency measure provision of section 172(c)(9) of the Act, which pertains to failure to attain the ozone standard by the required date, but EPA

is not obligated to approve such measures prior to approving the attainment demonstration. The EPA believes the contingency measure requirement of section 172(c)(9) is independent from the attainment demonstration requirements under sections 172(c)(1) and 182(c)(2)(A). The section 172(c)(9) contingency measure requirement addresses the event that an area fails to attain the ozone NAAQS by the attainment date established in the SIP and has no bearing on whether a state has submitted a SIP that projects attainment of the ozone NAAQS. The attainment SIP provides a demonstration that attainment ought to be reached, but the contingency measure SIP requirement of section 179(c)(9) concerns what is to happen only if attainment is not actually achieved. The EPA acknowledges that contingency measures are an independently required SIP revision, but does not believe that submission of contingency measures is necessary before EPA may approve an attainment SIP.

Connecticut's post-1999 ROP plan states that its large NO_X surplus is sufficient to meet both contingency measure provisions of the Act. However, the State's surplus NO_X reductions can not be used to meet the 179(c)(9) contingency measure requirement because that requirement pertains to a failure to meet the one hour ozone standard by the area's 2007 attainment date, and therefore must consist of measures that are surplus to the measures needed for attainment. The surplus NO_X reductions in Connecticut's ROP plan are not surplus to the measures needed for attainment.

In the event that attainment is not achieved by 2007, there are a number of EPA measures that will achieve significant emission reductions between 2007 and 2009. These include continuing reductions from EPA's Tier 2 tailpipe standards and EPA's standards for a variety of non-road sources. We have analyzed the Connecticut SIP and determined that the contingency obligation would be covered for this area by these measures. More details on EPA's contingency measure analysis are included in the docket for the rulemaking action. While there is not an approved SIP contingency measure that would apply if the state failed to attain, EPA believes that existing federally enforceable measures would provide the necessary substantive relief.

Other specific requirements of post-1999 ROP plans and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. See 66 FR 42178 (August 10, 2001).

E. SIP Elements EPA Approved Between December 16, 1999 and Today

In the NPR for the Connecticut attainment demonstration SIP published on December 16, 1999, EPA stated that it intended to publish, either before or at the same time as publication of final approval of the attainment demonstration, a final approval of Connecticut's VOC RACT rules pursuant to sections 182(b)(2)(A) and (C) of the Clean Air Act, the 9% rate of progress plan through 1999, the post-99 ROP plan, the state opt-in to the National Low Emission Vehicle (NLEV) program, and the NO_X SIP call SIP for the Connecticut portion of the NY–NJ–CT severe area. These measures are needed to fully approve the attainment demonstration.

EPA approved the Connecticut VOC RACT rules pursuant to sections 182(b)(2)(A) and (C) of Clean Air Act on October 19, 2000 (65 FR 62620). EPA approved the Connecticut area's 9% rate of progress plan on October 19, 2000 (65 FR 62624). EPA approved Connecticut's opt-in to the NLEV program on March 9, 2000 (65 FR 12476). EPA approved Connecticut's NO_X SIP call SIP on December 27, 2000 (65 FR 81743). This action approves the post-99 plan for the Connecticut portion of the NY–NJ–CT severe nonattainment area.

Additionally, subsequent to the December 16, 1999 proposal, EPA granted full approval to two other SIP elements in Connecticut. On March 9, 2000 (65 FR 12474), EPA approved Connecticut's Clean Fuel Fleets Substitute Plan as meeting the requirements of Section 182(c)(4) of the Clean Air Act. On October 27, 2000 (65 FR 64357), EPA approved the Connecticut Enhanced Inspection and Maintenance program SIP, converting it from a limited approval under the Clean Air Act to a full approval.

With the submission and approval of the SIP elements mentioned above, Connecticut has in place all of the required elements of the attainment demonstration SIP. As discussed elsewhere in this notice, Connecticut has met all of the requirements for full approval of its attainment demonstration for the Connecticut portion of the NY–NJ–CT severe area, and EPA is approving it today. The New York and New Jersey portions of the area will be the topic of different rulemaking actions.

III. What Comments Did EPA Receive on the Proposed Approvals and How Have We Responded?

As stated above, EPA did not receive comments on its August 10, 2001 proposal for the attainment demonstration, the post-99 plan, the motor vehicle emissions budgets or the RACM analysis. EPA did receive comments from the public on the NPR published on December 16, 1999 (64 FR 70332) for the Connecticut portion of the NY–NJ–CT severe area's ozone attainment demonstration. EPA received comments from Robert E. Yuhnke (Attorney for Environmental Defense and Natural Resources Defense Council), the Midwest Ozone Group, and ELM Packaging Company. EPA also received comments from the public on the supplemental proposed rulemaking published on July 28, 2000 (65 FR 46383), in which EPA clarified and expanded on two issues relating to the motor vehicle emissions budgets in the attainment demonstration SIPs. Environmental Defense commented on that supplemental proposal.

Additionally, on November 15, 2001, Environmental Defense submitted comments to EPA concerning several proposals to approve the attainment demonstrations for the New York and New Jersey portions of the NY–NJ–CT severe nonattainment area. These comments were not directed at the Connecticut attainment demonstration and generally discussed only the New York and New Jersey demonstrations in any detail. There was one comment in the letter that specifically focused on the adequacy of Connecticut's commitment to submit enforceable measures to address the emissions reduction shortfall. See Letter from Janea A. Scott and Val Washington to Raymond Werner (November 15, 2001) at section I.d. In section III.D., below, EPA is responding to this comment along with other comments concerning the shortfall measures.

The following discussion summarizes and responds to all of these comments. For convenience, the comments we received on previous NPRs have been grouped into categories.

A. Attainment Demonstrations—Weight of Evidence

Comment: The weight of evidence approach does not demonstrate attainment or meet CAA requirements for a modeled attainment demonstration. Commenters added several criticisms of various technical aspects of the weight of evidence approach, including certain specific applications of the approach to particular attainment demonstrations. These comments are discussed in the following response.

Response: Under section 182(c)(2) and (d) of the CAA, serious and severe ozone nonattainment areas were required to

submit by November 15, 1994, demonstrations of how they would attain the 1-hour standard. Section 182(c)(2)(A) provides that ''[t]his attainment demonstration must be based on photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective.'' As described in more detail below, the EPA allows states to supplement their photochemical modeling results, with additional evidence designed to account for uncertainties in the photochemical modeling, to demonstrate attainment. This approach is consistent with the requirement of section 182(c)(2)(A) that the attainment demonstration ''be based on photochemical grid modeling,'' because the modeling results constitute the principal component of EPA's analysis, with supplemental information designed to account for uncertainties in the model. This interpretation and application of the photochemical modeling requirement of section 182(c)(2)(A) finds further justification in the broad deference Congress granted EPA to develop appropriate methods for determining attainment, as indicated in the last phrase of section 182(c)(2)(A).

The flexibility granted to EPA under section 182(c)(2)(A) is reflected in the regulations EPA promulgated for modeled attainment demonstrations. These regulations provide, ''The adequacy of a control strategy shall be demonstrated by means of applicable air quality models, data bases, and other requirements specified in [40 CFR part 51, appendix W] (Guideline on Air Quality Models).''[1] 40 CFR 51.112(a)(1). However, the regulations further provide, ''Where an air quality model specified in appendix W * * * is inappropriate, the model may be modified or another model substituted [with approval by EPA, and after] notice and opportunity for public comment * * * '' Appendix W, in turn, provides that, ''The Urban Airshed Model (UAM) is recommended for photochemical or reactive pollutant modeling applications involving entire urban areas,'' but further refers to EPA's modeling guidance for data requirements and procedures for operating the model. 40 CFR part 51, appendix W, section 6.2.1.a. The modeling guidance discusses the data requirements and operating procedures, as well as interpretation of model results as they relate to the attainment demonstration. This provision references guidance published in 1991, but EPA envisioned the guidance would change as we gained experience with model applications, which is why the guidance is referenced, but does not appear, in appendix W. With updates in 1996 and 1999, the evolution of EPA's guidance has led us to use both the photochemical grid model, and additional analytical methods approved by EPA.

The modeled attainment test compares model predicted 1-hour daily maximum ozone concentrations in all grid cells for the attainment year to the level of the NAAQS. The results may be interpreted through either of two modeled attainment or exceedance tests: the deterministic test or the statistical test. Under the deterministic test, a predicted concentration above 0.124 parts per million (ppm) ozone indicates that the area is expected to exceed the standard in the attainment year and a prediction at or below 0.124 ppm indicates that the area is expected to not exceed the standard. Under the statistical test, attainment is demonstrated when all predicted (i.e., modeled) 1-hour ozone concentrations inside the modeling domain are at, or below, an acceptable upper limit above the NAAQS permitted under certain conditions (depending on the severity of the episode modeled).[2]

In 1996, EPA issued guidance[3] to update the 1991 guidance referenced in 40 CFR part 51, appendix W, to make the modeled attainment test more closely reflect the form of the NAAQS (i.e., the statistical test described above), to consider the area's ozone design value and the meteorological conditions accompanying observed exceedances, and to allow consideration of other evidence to address uncertainties in the modeling databases and application. When the modeling does not conclusively demonstrate attainment, EPA has concluded that additional analyses may be presented to help determine whether the area will attain the standard. As with other predictive tools, there are inherent uncertainties associated with air quality modeling and its results. The inherent imprecision of the model means that it may be inappropriate to view the specific numerical result of the model as the only determinant of whether the SIP controls are likely to lead to attainment. The EPA's guidance recognizes these limitations, and provides a means for considering other evidence to help assess whether attainment of the NAAQS is likely to be achieved. The process by which this is done is called a weight of evidence (WOE) determination. Under a WOE determination, the state can rely on, and EPA will consider in addition to the results of the modeled attainment test, other factors such as other modeled output (e.g., changes in the predicted frequency and pervasiveness of 1-hour ozone NAAQS exceedances, and predicted change in the ozone design value); actual observed air quality trends (i.e. analyses of monitored air quality data); estimated emissions trends; and the responsiveness of the model predictions to further controls.

In 1999, EPA issued additional guidance[4] that makes further use of model results for base case and future emission estimates to predict a future design value. This guidance describes the use of an additional component of the WOE determination, which requires, under certain circumstances, additional emission reductions that are or will be approved into the SIP, but that were not included in the modeling analysis, that will further reduce the modeled design value. An area is considered to monitor attainment if each monitor site has air quality observed ozone design values (4th highest daily maximum ozone using the three most recent consecutive years of data) at or below the level of the standard. Therefore, it is appropriate for EPA, when making a determination that a control strategy will provide for attainment, to determine whether or not the model predicted future design value is expected to be at or below the level of the standard. Since the form of the 1-hour NAAQS allows exceedances, it did not seem appropriate for EPA to require the test for attainment to be ''no exceedances'' in the future model predictions. The method outlined in EPA's 1999 guidance uses the highest measured design value across all sites in the nonattainment area for each of three years. These three ''design values'' represent the air quality observed during the time period used to predict ozone for the base emissions. This is appropriate because the model is predicting the change in ozone from the base period to the future attainment date. The three yearly design values

[1] The August 12, 1996 version of ''appendix W to part 51—Guideline on Air Quality Models'' was the rule in efect for these attainment demonstrations. EPA is proposing updates to this rule, that will not take effect until the rulemaking process for them is complete.

[2] Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS. EPA–454/B–95–007, June 1996.

[3] Ibid.

[4] ''Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled.'' U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711, November 1999. Web site: *http://www.epa.gov/ttn/scram.*

(highest across the area) are averaged to account for annual fluctuations in meteorology. The result is an estimate of an area's base year design value. The base year design value is multiplied by a ratio of the peak model predicted ozone concentrations in the attainment year (i.e., average of daily maximum concentrations from all days modeled) to the peak model predicted ozone concentrations in the base year (i.e., average of daily maximum concentrations from all days modeled). The result is an attainment year design value based on the relative change in peak model predicted ozone concentrations from the base year to the attainment year. Modeling results also show that emission control strategies designed to reduce areas of peak ozone concentrations generally result in similar ozone reductions in all core areas of the modeling domain, thereby providing some assurance of attainment at all monitors.

In the event that the attainment year design value is above the standard, the 1999 guidance provides a method for identifying additional emission reductions, not modeled, which at a minimum provide an estimated attainment year design value at the level of the standard. This step uses a locally derived factor which assumes a linear relationship between ozone and the precursors.

A commenter criticized the 1999 guidance as flawed on grounds that it allows the averaging of the three highest air quality sites across a region, whereas EPA's 1991 and 1996 modeling guidance requires that attainment be demonstrated at each site. This has the effect of allowing lower air quality concentrations to be averaged against higher concentrations thus reducing the total emission reduction needed to attain at the higher site. The commenter does not appear to have described the guidance accurately. The guidance does not recommend averaging across a region or spatial averaging of observed data. The guidance does recommend determination of the highest site in the region for each of the three-year periods, determined by the base year modeled. For example, if the base year is 1990, it is the amount of emissions in 1990 that must be adjusted or evaluated (by accounting for growth and controls) to determine whether attainment results. These 1990 emissions contributed to three design value periods (1988–90, 1989–91 and 1990–92). Under the approach of the guidance document, EPA determined the design value for each of those three-year periods, and then averaged those three design values, to determine the base design value. This approach is appropriate because, as just noted, the 1990 emissions contributed to each of those periods, and there is no reason to believe the 1990 (episodic) emissions resulted in the highest or lowest of the three design values. Averaging the three years is beneficial for another reason: It allows consideration of a broader range of meteorological conditions—those that occurred throughout the 1988–1992 period, rather than the meteorology that occurs in one particular year or even one particular ozone episode within that year. Furthermore, EPA relied on three-year averaging only for purposes of determining one component, *i.e.*—the small amount of additional emission reductions not modeled—of the WOE determination. The WOE determination, in turn, is intended to be part of a qualitative assessment of whether additional factors (including the additional emissions reductions not modeled), taken as a whole, indicate that the area is more likely than not to attain.

A commenter criticized the component of this WOE factor that estimates ambient improvement because it does not incorporate complete modeling of the additional emissions reductions. However, the regulations do not mandate, nor does EPA guidance suggest, that states must model all control measures being implemented. Moreover, a component of this technique—the estimation of future design value—should be considered a model-predicted estimate. Therefore, results from this technique are an extension of ''photochemical grid'' modeling and are consistent with section 182(c)(2)(A). Also, a commenter believes that EPA has not provided sufficient opportunity to evaluate the calculations used to estimate additional emission reductions. EPA provided a full 60-day period for comment on all aspects of the proposed rule. EPA has received several comments on the technical aspects of the approach and the results of its application, as discussed above and in the responses to the individual SIPs.

A commenter states that application of the method of attainment analysis used for the December 16, 1999 NPRs will yield a lower control estimate than if we relied entirely on reducing maximum predictions in every grid cell to less than or equal to 124 ppb on every modeled day. However, the commenter's approach may overestimate needed controls because the form of the standard allows up to 3 exceedances in 3 years in every grid cell. If the model over predicts observed concentrations, predicted controls may be further overestimated. EPA has considered other evidence, as described above, through the weight of evidence determination.

When reviewing a SIP, the EPA must make a determination that the control measures adopted are reasonably likely to lead to attainment. Reliance on the WOE factors allows EPA to make this determination based on a greater body of information presented by the states and available to EPA. This information includes model results for the majority of the control measures. Although not all measures were modeled, EPA reviewed the model's response to changes in emissions as well as observed air quality changes to evaluate the impact of a few additional measures, not modeled. EPA's decision was further strengthened by each state's commitment to check progress towards attainment in a mid-course review and to adopt additional measures, if the anticipated progress is not being made.

A commenter further criticized EPA's technique for estimating the ambient impact of additional emissions reductions not modeled on grounds that EPA employed a rollback modeling technique that, according to the commenter, is precluded under EPA regulations. The commenter explained that 40 CFR part 51, appendix W, section 6.2.1.e. provides, ''Proportional (rollback/forward) modeling is not an acceptable procedure for evaluating ozone control strategies.'' Section 14.0 of appendix W defines ''rollback'' as ''a simple model that assumes that if emissions from each source affecting a given receptor are decreased by the same percentage, ambient air quality concentrations decrease proportionately.'' Under this approach if 20% improvement in ozone is needed for the area to reach attainment, it is assumed a 20% reduction in VOC would be required. There was no approach for identifying NO_X reductions.

The ''proportional rollback'' approach is based on a purely empirically/mathematically derived relationship. EPA did not rely on this approach in its evaluation of the attainment demonstrations. The prohibition in Appendix W applies to the use of a rollback method which is empirically/mathematically derived and independent of model estimates or observed air quality and emissions changes as the sole method for evaluating control strategies. For the demonstrations under proposal, EPA used a locally derived (as determined by the model and/or observed changes in air quality) ratio of change in emissions to change in ozone to estimate

additional emission reductions to achieve an additional increment of ambient improvement in ozone.

For example, if monitoring or modeling results indicate that ozone was reduced by 25 ppb during a particular period, and that VOC and NO_X emissions fell by 20 tons per day and 10 tons per day respectively during that period, EPA developed a ratio of ozone improvement related to reductions in VOC and NO_X. This formula assumes a linear relationship between the precursors and ozone for a small amount of ozone improvement, but it is not a ''proportional rollback'' technique. Further, EPA uses these locally derived adjustment factors as a component to estimate the extent to which additional emissions reductions—not the core control strategies—would reduce ozone levels and thereby strengthen the weight of evidence test. EPA uses the UAM to evaluate the core control strategies.

This limited use of adjustment factors is more technically sound than the unacceptable use of proportional rollback to determine the ambient impact of the entire set of emissions reductions required under the attainment SIP. The limited use of adjustment factors is acceptable for practical reasons: it obviates the need to expend more time and resources to perform additional modeling. In addition, the adjustment factor is a locally derived relationship between ozone and its precursors based on air quality observations and/or modeling which is more consistent with recommendations referenced in Appendix W and does not assume a direct proportional relationship between ozone and its precursors. Lastly, the requirement that areas perform a mid-course review (a check of progress toward attainment) provides a margin of safety.

A commenter expressed concerns that EPA used a modeling technique (proportional rollback) that was expressly prohibited by 40 CFR part 51 Appendix W, without expressly proposing to do so in a notice of proposed rulemaking. However, the commenter is mistaken. As explained above, EPA did not use or rely upon a proportional rollback technique in this rulemaking, but used UAM to evaluate the core control strategies and then applied its WOE guidance. Therefore, because EPA did not use an ''alternative model'' to UAM, it did not trigger an obligation to modify Appendix W. Furthermore, EPA did propose the use the November 1999 guidance, ''Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled,'' in the December 16, 1999 NPR and has responded to all comments received on that guidance elsewhere in this document.

A commenter also expressed concern that EPA applied unacceptably broad discretion in fashioning and applying the WOE determinations. For all of the attainment submittals proposed for approval in December 1999 concerning serious and severe ozone nonattainment areas, EPA first reviewed the UAM results. In all cases, the UAM results did not pass the deterministic test. In two cases—Milwaukee and Chicago—the UAM results passed the statistical test; in the rest of the cases, the UAM results failed the statistical test. The UAM has inherent limitations that, in EPA's view, were manifest in all these cases. These limitations include: (1) Only selected time periods were modeled, not the entire three-year period used as the definitive means for determining an area's attainment status; (2) inherent uncertainties in the model formulation and model inputs such as hourly emission estimates, emissions growth projections, biogenic emission estimates, and derived wind speeds and directions. As a result, for all areas, even Milwaukee and Chicago, EPA examined additional analyses to indicate whether additional SIP controls would yield meaningful reductions in ozone values. These analyses did not point to the need for additional emission reductions for Springfield, Greater Connecticut, Metropolitan Washington, DC, Chicago and Milwaukee, but did point to the need for additional reductions, in varying amounts, in the other areas. As a result, the other areas submitted control requirements to provide the indicated level of emissions reductions. EPA applied the same methodology in these areas, but because of differences in the application of the model to the circumstances of each individual area, the results differed on a case-by-case basis.

As another WOE factor, for areas within the NO_X SIP call domain, results from the EPA regional modeling for NO_X controls as well as the Tier2/Low Sulfur program were considered. Also, for all of the areas, EPA considered recent changes in air quality and emissions. For some areas, this was helpful because there were emission reductions in the most recent years that could be related to observed changes in air quality, while for other areas there appeared to be little change in either air quality or emissions. For areas in which air quality trends, associated with changes in emissions levels, could be discerned, these observed changes were used to help decide whether or not the emission controls in the plan would provide progress towards attainment. For Connecticut, between 1990 and 1999 VOC emissions were lowered by 26 percent and NO_X emissions were lowered by 19 percent. These precursor emissions will continue to be reduced within the state, which will help lower ozone both within and downwind of Connecticut. In addition the reduction of precursor emissions in the large metropolitan areas upwind of Connecticut, along with power plant emissions reductions, throughout the eastern USA, will result in attainment of the one-hour NAAQS by 2007 in Connecticut. Air quality trend data for the past 21 years, since 1980, show vast improvement in ozone levels in Connecticut. Over the past twelve to fourteen years, the maximum design value for the ozone monitors in the severe portion of Connecticut has dropped from 201 ppb, in the 1987–1989 time frame (the value used to classify this area in 1991), to 143 ppb based on ozone data from 1999, 2000 and preliminary ozone data from 2001. This is a drop of 58 ppb or 29 percent.

The commenter also complained that EPA has applied the WOE determinations to adjust modeling results only when those results indicate nonattainment, and not when they indicate attainment. First, we disagree with the premise of this comment: EPA does not apply the WOE factors to adjust model results. EPA applies the WOE factors as additional analysis to compensate for uncertainty in the air quality modeling. Second, EPA has applied WOE determinations to all of the attainment demonstrations proposed for approval in December 1999. Although for most of them, the air quality modeling results by themselves indicated nonattainment, for two metropolitan areas—Chicago and Milwaukee, including parts of the States of Illinois, Indiana, and Wisconsin, the air quality modeling did indicate attainment on the basis of the statistical test.

The commenter further criticized EPA's application of the WOE determination on grounds that EPA ignores evidence indicating that continued nonattainment is likely, such as, according to the commenter, monitoring data indicating that ozone levels in many cities during 1999 continue to exceed the NAAQS by margins as wide or wider than those predicted by the UAM. EPA has reviewed the evidence provided by the commenter. The 1999 monitor values do not constitute substantial evidence indicating that the SIPs will not provide

for attainment. These values do not reflect either the local or regional control programs which are scheduled for implementation in the next several years. Once implemented, these controls are expected to lower emissions and thereby lower ozone values. Moreover, there is little evidence to support the statement that ozone levels in many cities during 1999 continue to exceed the NAAQS by margins as wide or wider than those predicted by the UAM. Since areas did not model 1999 ozone levels using 1999 meteorology and 1999 emissions which reflect reductions anticipated by control measures, that are or will be approved into the SIP, there is no way to determine how the UAM predictions for 1999 compare to the 1999 air quality. Therefore, we can not determine whether or not the monitor values exceed the NAAQS by a wider margin than the UAM predictions for 1999. In summary, there is little evidence to support the conclusion that high exceedances in 1999 will continue to occur after adopted control measures are implemented.

In addition, the commenter argued that in applying the WOE determinations, EPA ignored factors showing that the SIPs under-predict future emissions, and the commenter included as examples certain mobile source emissions sub-inventories. EPA did not ignore possible under-prediction in mobile emissions. EPA is presently evaluating mobile source emissions data as part of an effort to update the computer model for estimating mobile source emissions. EPA is considering various changes to the model, and is not prepared to conclude at this time that the net effect of all these various changes would be to increase or decrease emissions estimates. For attainment demonstration SIPs that rely on the Tier 2/Sulfur program for attainment or otherwise (i.e., reflect these programs in their motor vehicle emissions budgets), States have committed to revise their motor vehicle emissions budgets after the MOBILE6 model is released. EPA will work with States on a case-by-case basis if the new emission estimates raise issues about the sufficiency of the attainment demonstration. If analysis indicates additional measures are needed, EPA will take the appropriate action.

B. Reliance on NO_X SIP Call and Tier 2

Comment: Several commenters stated that given the uncertainty surrounding the NO_X SIP Call at the time of EPA's proposals on the attainment demonstrations, there is no basis for the conclusion reached by EPA that states should assume implementation of the NO_X SIP Call, or rely on it as a part of their demonstrations. One commenter claims that there were errors in the emissions inventories used for the NO_X SIP Call Supplemental Notice (SNPR) and that these inaccuracies were carried over to the modeling analyses, estimates of air quality based on that modeling, and estimates of EPA's Tier 2 tailpipe emissions reduction program not modeled in the demonstrations. Thus, because of the inaccuracies in the inventories used for the SIP Call, the attainment demonstration modeling is also flawed. Finally, one commenter suggests that modeling data demonstrates that the benefits of imposing NO_X SIP Call controls are limited to areas near the sources controlled.

Response: These comments were submitted prior to several court decisions largely upholding EPA's NO_X SIP Call. *Michigan* v. *EPA,* 213 F.3d 663 (D.C. Cir. 2000), cert. denied, 121 S.Ct. 1225, 149 L.Ed. 135 (2001); *Appalachian Power* v. *EPA,* 251 F.3d 1026 (D.C. Cir. 2001) . Although a few issues were vacated or remanded to EPA for further consideration, these issues do not concern the accuracy of the emission inventories relied on for purposes of the SIP Call. Moreover, contrary to the commenter's suggestion, the SIP Call modeling data bases were not used to develop estimates of reductions from the Tier 2 program for the severe-area one-hour attainment demonstrations. Accordingly, the commenter's concerns that inaccurate inventories for the SIP Call modeling lead to inaccurate results for the severe-area one-hour attainment demonstrations are inapposite.

The remanded issues do affect the ability of EPA and the States to achieve the full level of the SIP Call reductions by May 2003. First, the court vacated the rule as it applied to two states—Missouri and Georgia—and also remanded the definition of a co-generator and the assumed emission limit for internal combustion engines. EPA has informed the states that until EPA addresses the remanded issues, EPA will accept SIPs that do not include those small portions of the emission budget. However, EPA is planning to propose a rule shortly to address the remanded issues and ensure that emission reductions from these states and the emission reductions represented by the two source categories are addressed in time to benefit the severe nonattainment areas. Also, although the court in the *Michigan* case subsequently issued an order delaying the implementation date to no later than May 31, 2004, and the *Appalachian Power* case remanded an issue concerning computation of the EGU growth factor, it is EPA's view that states should assume that the SIP Call reductions will occur in time to ensure attainment in the severe nonattainment areas. In fact many states have adopted rules that achieve the full SIP call level reductions by May 1, 2003. Both EPA and the states are moving forward to implement the SIP Call.

Finally, contrary to the commenter's conclusions, EPA's modeling to determine the region-wide impacts of the NO_X SIP call clearly shows that regional transport of ozone and its precursors is impacting nonattainment areas several states away. This analysis was upheld by the court in *Michigan.*

C. RACM (Including Transportation Control Measures)

Comment: Several commenters stated that there is no evidence in several states that they have adopted reasonably available control measures (RACM) or that the SIPs have provided for attainment as expeditiously as practicable. Specifically, the lack of Transportation Control Measures (TCMs) was cited in several comments, but commenters also raised concerns about potential stationary source controls.

One commenter stated that mobile source emission budgets in the plans are by definition inadequate because the SIPs do not demonstrate timely attainment or contain the emissions reductions required for all RACM. That commenter claims that EPA may not find adequate a motor vehicle emission budget (MVEB) that is derived from a SIP that is inadequate for the purpose for which it is submitted. The commenter alleges that none of the MVEBs submitted by the states that EPA is considering for adequacy is consistent with the level of emissions achieved by implementation of all RACM, nor are they derived from SIPs that provide for attainment. Some commenters stated that for measures that are not adopted into the SIP, the state must provide a justification for why they were determined to not be RACM.

Response: After receipt of this comment on the December 16, 1999 proposal, EPA reviewed the initial SIP submittals for the Connecticut portion of the NY–NJ–CT severe area, as well as the other areas for which EPA proposed approval in December 1999, and determined that they did not include sufficient documentation concerning available RACM measures. For all of the severe areas for which EPA proposed approval in December 1999, EPA

consequently issued a guidance memorandum providing that these states should address the RACM requirement through an additional SIP submittal. (Memorandum of December 14, 2000, from John S. Seitz, Director, Office of Air Quality Planning and Standards, re: ''Additional Submission on RACM from States with Severe 1-hour Ozone Nonattainment Area SIPs.'')

The State of Connecticut provided EPA with a draft RACM analysis on August 2, 2001, and finalized that document on October 15, 2001. EPA proposed to approve this SIP as meeting the RACM requirements via parallel processing on August 10, 2001 (66 FR 42172). In the proposal, EPA set forth its interpretation of the RACM requirement. See 66 FR 42182. Based on our review of the RACM submission, EPA proposed that CT had adopted all RACM. EPA received no comments on that proposal. Today, EPA approves the Connecticut RACM analysis as meeting the requirement for adopting RACM for the Connecticut portion of the NY–NJ–CT severe area.

Section 172(c)(1) of the Act requires SIPs to contain RACM and provides for areas to attain as expeditiously as practicable. EPA has previously provided guidance interpreting the requirements of 172(c)(1). See 57 FR 13498, 13560. In that guidance, EPA indicated its interpretation that potentially available measures that would not advance the attainment date for an area would not be considered RACM. EPA also indicated in that guidance that states should consider all potentially available measures to determine whether they were reasonably available for implementation in the area, and whether they would advance the attainment date. Further, states should indicate in their SIP submittals whether measures considered were reasonably available or not, and if measures are reasonably available they must be adopted as RACM. Finally, EPA indicated that states could reject measures as not being RACM because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, would be economically or technologically infeasible, or would be unavailable based on local considerations, including costs. The EPA also issued a recent memorandum re-confirming the principles in the earlier guidance, entitled, ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.'' John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.* EPA has consistently interpreted the Clean Air Act as requiring only such RACM as will provide for expeditious attainment, since we first addressed the issue in guidance issued in 1979. 44 FR 20372, 20375 (April 4, 1979).

Although EPA does not believe that section 172(c)(1) requires implementation of additional measures for Connecticut portion of the NY–NJ–CT severe area, this conclusion is not necessarily valid for other areas. Thus, a determination of RACM is necessary on a case-by-case basis and will depend on the circumstances for the individual area. In addition, if in the future EPA moves forward to implement another ozone standard, this RACM analysis would not control what is RACM for these or any other areas for that other ozone standard.

Also, EPA has long advocated that states consider the kinds of control measures that the commenters have suggested, and EPA has indeed provided guidance on those measures. See, e.g., *http://www.epa.gov/otaq/transp.htm.* In order to demonstrate that they will attain the 1-hour ozone NAAQS as expeditiously as practicable, some areas may need to consider and adopt a number of measures-including the kind that the Connecticut portion of the NY–NJ–CT severe area itself evaluated in its RACM analysis—that even collectively do not result in many emission reductions. Furthermore, EPA encourages areas to implement technically available and economically feasible measures to achieve emissions reductions in the short term—even if such measures do not advance the attainment date—since such measures will likely improve air quality. Also, over time, emission control measures that may not be RACM now for an area may ultimately become feasible for the same area due to advances in control technology or more cost-effective implementation techniques. Thus, areas should continue to assess the state of control technology as they make progress toward attainment and consider new control technologies that may in fact result in more expeditious improvement in air quality.

Because EPA is finding that the SIP meets the Clean Air Act's requirement for RACM and that there are no additional reasonably available control measures that can advance the attainment date, EPA concludes that the attainment date being approved is as expeditious as practicable.

EPA previously responded to comments concerning the adequacy of MVEBs when EPA took final action determining the budgets adequate and does not address those issues again here. The responses are found at: *http://www.epa.gov/oms/transp/conform/pastsips.htm.*

D. Attainment and Rate of Progress Demonstrations—Approval of Demonstrations That Rely on State Commitments or State Rules for Emission Limitations to Lower Emissions in the Future Not Yet Adopted by a State and/or Approved by EPA

Comment: Several commenters disagreed with EPA's proposal to approve states' attainment and rate of progress demonstrations because: (a) Not all of the emissions reductions assumed in the demonstrations have actually taken place, (b) those emission reductions are reflected in rules yet to be adopted and approved by a state and approved by EPA as part of the SIP, (c) those emission reductions are credited illegally as part of a demonstration because they are not approved by EPA as part of the SIP, or (d) the commenter maintains that EPA does not have authority to accept enforceable state commitments to adopt measures in the future in lieu of current adopted measures to fill a near-term shortfall of reductions.

Response: EPA disagrees with the comments, and believes—consistent with past practice—that the CAA allows approval of enforceable commitments that are limited in scope where circumstances exist that warrant the use of such commitments in place of adopted measures.[5] Once EPA determines that circumstances warrant consideration of an enforceable commitment, EPA believes that three factors should be considered in determining whether to approve the enforceable commitment: (1) Whether the commitment addresses a limited portion of the statutorily-required program; (2) whether the state is capable of fulfilling its commitment; and (3)

[5] These commitments are enforceable by the EPA and citizens under, respectively, sections 113 and 304 of the CAA. In the past, EPA has approved enforceable commitments and courts have enforced these actions against states that failed to comply with those commitments. *See, e.g., American Lung Ass'n of N.J.* v. *Kean,* 670 F. Supp. 1285 (D.N.J. 1987), *aff'd,* 871 F.2d 319 (3rd Cir. 1989); *NRDC, Inc.* v. *N.Y. State Dept. of Env. Cons.,* 668 F. Supp. 848 (S.D.N.Y. 1987); *Citizens for a Better Env't* v. *Deukmejian,* 731 F. Supp. 1448, *recon. granted in part,* 746 F. Supp. 976 (N.D. Cal. 1990); *Coalition for Clean Air* v. *South Coast Air Quality Mgt. Dist.,* No. CV 97–6916–HLH, (C.D. Cal. Aug. 27, 1999). Further, if a state fails to meet its commitments. EPA could make a finding of failure to implement the SIP under section 179(a) of the Act, which starts an 18-month period for the State to begin implementation before mandatory sanctions are imposted.

whether the commitment is for a reasonable and appropriate period of time.

As an initial matter, EPA believes that present circumstances for the New York City, Philadelphia, Baltimore nonattainment areas warrant the consideration of enforceable commitments. The Northeast states that make up the New York, Baltimore, and Philadelphia nonattainment areas submitted SIPs that they reasonably believed demonstrated attainment with fully adopted measures. After EPA's initial review of the plans, EPA recommended to these areas that additional controls would be necessary to ensure attainment. Because these areas had already submitted plans with many fully adopted rules and the adoption of additional rules would take some time, EPA believed it was appropriate to allow these areas to supplement their plans with enforceable commitments to adopt and submit control measures to achieve the additional necessary reductions. For these areas, EPA has determined that the submission of enforceable commitments in place of adopted control measures for these limited sets of reductions will not interfere with each area's ability to meet its rate-of-progress and attainment obligations.

EPA's approach here of considering enforceable commitments that are limited in scope is not new. EPA has historically recognized that under certain circumstances, issuing full approval may be appropriate for a submission that consists, in part, of an enforceable commitment. *See e.g.,* 62 FR 1150, 1187 (Jan. 8, 1997) (ozone attainment demonstration for the South Coast Air Basin); 65 FR 18903 (Apr. 10, 2000) (revisions to attainment demonstration for the South Coast Air Basin); 63 FR 41326 (Aug. 3, 1998) (federal implementation plan for PM–10 for Phoenix); 48 FR 51472 (state implementation plan for New Jersey). Nothing in the Act speaks directly to the approvability of enforceable commitments.[6] However, EPA believes that its interpretation is consistent with provisions of the CAA. For example, section 110(a)(2)(A) provides that each SIP ''shall include enforceable emission limitations and other control measures, means or techniques * * * *as well as schedules and timetables for compliance,* as may be necessary or appropriate to meet the applicable requirement of the Act.'' Section 172(c)(6) of the Act requires, as a rule generally applicable to nonattainment SIPs, that the SIP ''include enforceable emission limitations and such other control measures, means or techniques * * * *as may be necessary or appropriate* to provide for attainment * * * by the applicable attainment date * * *'' (Emphasis added.) The emphasized terms mean that at the time of approval of the plan, the adopted enforceable emission limitations and other control measures do not necessarily need to generate reductions in the full amount needed to attain. Rather, the emissions limitations and other control measures may be supplemented with other SIP rules—for example, the enforceable commitments EPA is approving today—as long as the entire package of measures and rules provides for attainment by the attainment date and do not interfere with other requirements such as ROP.

As provided above, after concluding that the circumstances warrant consideration of an enforceable commitment—as they do for a nonattainment area such as the Connecticut portion of the NY–NJ–CT severe area—EPA would consider three factors in determining whether to approve the submitted commitments. First, EPA believes that the commitments must be limited in scope. In 1994, in considering EPA's authority under section 110(k)(4) to conditionally approve unenforceable commitments, the Court of Appeals for the District of Columbia Circuit struck down an EPA policy that would allow States to submit (under limited circumstances) commitments for entire programs. *Natural Resources Defense Council* v. *EPA,* 22 F.3d 1125 (D.C. Cir. 1994). While EPA does not believe that case is directly applicable here, EPA agrees with the Court that other provisions in the Act contemplate that a SIP submission will consist of more than a mere commitment. *See NRDC,* 22. F.3d at 1134.

For the Connecticut portion of the NY–NJ–CT severe area, the remaining commitment addresses only a small portion of the emission reductions necessary to attain the standard. Connecticut has adopted all other CAA mandated control programs. Details of these programs are found in section D.3 above. These already adopted programs are achieving the vast majority of the precursor emission reductions necessary for attainment.

As to the second factor, whether the State is capable of fulfilling the commitment, EPA considered the current or potential availability of measures capable of achieving the additional level of reductions represented by the commitment. For the New York, Philadelphia and Baltimore nonattainment areas, EPA believes that there are sufficient untapped sources of emission reductions that could achieve the minimal levels of additional reductions that the areas need. This conclusion is supported by the recent recommendation of the Ozone Transport Commission (''OTC'') regarding specific controls that could be adopted to achieve the level of reductions needed for each of these three nonattainment areas. Thus, EPA believes that the states will be able to find sources of reductions to meet the shortfall. The states that comprise the New York, Philadelphia and Baltimore nonattainment areas are making significant progress toward adopting the measures to fill the shortfall. The OTC has met and on March 29, 2001 recommended a set of control measures. Currently, the states are working through their adoption processes with respect to those, and in some cases other, control measures. For example Connecticut recently adopted and EPA approved the MWC rule mentioned above, and Connecticut has identified specific measures that should completely address any remaining shortfall.

The third factor, EPA has considered in determining to approve limited commitments for the Connecticut portion of the NY–NJ–CT severe area attainment demonstration is whether the commitment is for a reasonable and appropriate period. EPA recognizes that both the Act and EPA have historically emphasized the need for submission of adopted control measures in order to ensure expeditious implementation and achievement of required emissions reductions. Thus, to the extent that other factors—such as the need to consider innovative control strategies—support the consideration of an enforceable commitment in place of adopted control measures, the commitment should provide for the adoption of the necessary control measures on an expeditious, yet practicable, schedule.

As provided above, for New York, Baltimore and Philadelphia, EPA proposed that these areas have time to work within the framework of the OTC to develop, if appropriate, a regional control strategy to achieve the necessary reductions and then to adopt the controls on a state-by-state basis. In the

[6] Section 110(k)(4) provides for ''conditional approval'' of commitments that need not be enforceable. Under that section, a State may commit to ''adopt specific enforceable measures'' within one-year of the conditional approval. Rather than enforcing such commitments against the State, the Act provides that the conditional approval will convert to a disapproval if ''the State fails to comply with such commitment.''

proposed approval of the attainment demonstrations, EPA proposed that these areas would have approximately 22 months to complete the OTC and state-adoption processes—a fairly ambitious schedule—i.e., until October 31, 2001. As a starting point in suggesting this time frame for submission of the adopted controls, EPA first considered the CAA ''SIP Call'' provision of the CAA—section 110(k)(5)—which provides states with up to 18 months to submit a SIP after EPA requests a SIP revision. While EPA may have ended its inquiry there, and provided for the states to submit the measures within 18 months of its proposed approval of the attainment demonstrations, EPA further considered that these areas were all located with the Northeast Ozone Transport Region and determined that it was appropriate to provide these areas with additional time to work through the OTR process to determine if regional controls would be appropriate for addressing the shortfall. See e.g., 64 FR 70348. EPA believed that allowing these states until 2001 to adopt these additional measures would not undercut their attainment dates of November 2005 or 2007 or the ability of these areas to meet their ROP requirement.

Connecticut did not make the October 31, 2001 submission deadline for all the control measures to make up the shortfall. Connecticut did submit the MWC rule (see section II.B), and Connecticut has started on the SIP process for the remaining measures. These measures will include mobile equipment repair and refinishing regulations and regulations on consumer products. EPA believes that Connecticut is making sufficient progress to support approval of the commitment, because Connecticut will adopt and implement the remaining measures within a time period fully consistent with the NY–NJ–CT severe area attaining the standard by November 15, 2007. Details on Connecticut's progress in addressing the shortfall in emission reductions can be found in the memorandum ''Status of Connecticut's Adoption of Additional Measures to Close the Shortfall Identified in the One-Hour Ozone Attainment Demonstration for the Connecticut Portion of the New York-New Jersey-Connecticut Severe Area'' dated November 29, 2001 located in the docket for this action.

The enforceable commitments submitted for the Connecticut portion of the NY–NJ–CT severe nonattainment area, in conjunction with the other SIP measures and other sources of emissions reductions, constitute the required demonstration of attainment and the commitments will not interfere with the area's ability to make reasonable progress under section 182(c)(2)(B) and (d). EPA believes that the delay in submittal of the final rules is permissible under section 110(k)(3) because the state has obligated itself to submit the rules, and that obligation is enforceable by EPA and the public. Moreover, as discussed in the December 16, 1999 proposal, and Section D.3 of this document, the SIP submittal approved today contains major substantive components submitted as adopted regulations and enforceable orders.

EPA believes that the Connecticut SIP meets the NRDC consent decree definition of a ''full attainment demonstration.'' The consent decree defines a ''full attainment demonstration'' as a demonstration according to CAA section 182(c)(2). As a whole, the attainment demonstration—consisting of photochemical grid modeling, adopted control measures, an enforceable commitment with respect to a limited portion of the reductions necessary to attain, and other analyses and documentation—is approvable since it ''provides for attainment of the ozone [NAAQS] by the applicable attainment date.'' See section 182(c)(2)(A).

E. Adequacy of Motor Vehicle Emissions Budgets

Comment: We received a number of comments about the process and substance of EPA's review of the adequacy of motor vehicle emissions budgets for transportation conformity purposes.

Response: EPA's adequacy process for these SIPs has been completed, and we have found the motor vehicle emissions budgets in all of these SIPs to be adequate. We have already responded to any comments related to adequacy when we issued our adequacy findings, and therefore we are not listing the individual comments or responding to them here. Our findings of adequacy and responses to comments can be accessed at *www.epa.gov/otaq/traq* (once there, click on the ''conformity'' button). At the Web site, EPA regional contacts are identified.

F. Attainment Demonstration and Rate of Progress Motor Vehicle Emissions Inventories

Comment: Several commenters stated that the motor vehicle emissions inventory is not current, particularly with respect to the fleet mix. Commenters stated that the fleet mix does not accurately reflect the growing proportion of sport utility vehicles and gasoline trucks, which pollute more than conventional cars. Also, a commenter stated that EPA and states have not followed a consistent practice in updating SIP modeling to account for changes in vehicle fleets. For these reasons, commenters recommend disapproving the SIPs.

Response: The Connecticut SIP we are taking final action on is based on the most recent vehicle registration data from 1996, which is the most recent data that was available at the time the SIP was submitted in 2001. The SIP also contains vehicle fleet characteristics that are in the most recent periodic inventory update, which was submitted on March 13, 2000. EPA requires the most recently available data to be used, but we do not require it to be updated on a specific schedule. Therefore, different SIPs base their fleet mix on different years of data. Our guidance does not suggest that SIPs should be disapproved on this basis. Nevertheless, we do expect that revisions to these SIPs that are submitted using MOBILE6 (as required in those cases where the SIP is relying on emissions reductions from the Tier 2 standards) will use updated vehicle registration data appropriate for use with MOBILE6, whether it is updated local data or the updated national default data that will be part of MOBILE6.

G. VOC Emission Reductions

Comment: For States that need additional VOC reductions, one commenter recommends a process to achieve these VOC emission reductions, which involves the use of HFC–152a (1,1 difluoroethane) as the blowing agent in manufacturing of polystyrene foam products such as food trays and egg cartons. The commenter states that HFC–152a could be used instead of hydrocarbons, a known pollutant, as a blowing agent. Use of HFC–152a, which is classified as VOC exempt, would eliminate nationwide the entire 25,000 tons/year of VOC emissions from this industry.

Response: EPA has met with the commenter and has discussed the technology described by the company to reduce VOC emissions from polystyrene foam blowing through the use of HFC–152a (1,1 difluoroethane), which is a VOC exempt compound, as a blowing agent. Since the HFC–152a is VOC exempt, its use would give a VOC reduction compared to the use of VOCs such a pentane or butane as a blowing agent. However, EPA has not studied this technology exhaustively. It is each state's prerogative to specify which measures it will adopt in order to

achieve the additional VOC reductions it needs. In evaluating the use of HFC–152a, states may want to consider claims that products made with this blowing agent are comparable in quality to products made with other blowing agents. Also the question of the over-all long term environmental effect of encouraging emissions of fluorine compounds would be relevant to consider. This is a technology which states may want to consider, but ultimately, the decision of whether to require this particular technology to achieve the necessary VOC emissions reductions must be made by each affected state. Finally, EPA notes that under the significant new alternatives policy (SNAP) program, created under CAA section 612, EPA has identified acceptable foam blowing agents many of which are not VOCs (http://www.epa.gov/ozone/title6/snap/).

H. Credit for Measures Not Fully Implemented

Comment: States should not be given credit for measures that are not fully implemented. For example, the states are being given full credit for federal coating, refinishing and consumer product rules that have been delayed or weakened.

Response: Architectural and Industrial Maintenance (AIM) Coatings: On March 22, 1995 EPA issued a memorandum [7] that provided that states could claim a 20% reduction in VOC emissions from the AIM coatings category in ROP and attainment plans based on the anticipated promulgation of a national AIM coatings rule. In developing the attainment and ROP SIPs for their nonattainment areas, states relied on this memorandum to estimate emission reductions from the anticipated national AIM rule. EPA promulgated the final AIM rule in September 1998, codified at 40 CFR part 59, subpart D. In the preamble to EPA's final AIM coatings regulation, EPA estimated that the regulation will result in 20% reduction of nationwide VOC emissions from AIM coatings categories (63 FR 48855). The estimated VOC reductions from the final AIM rule resulted in the same level as those estimated in the March 1995 EPA policy memorandum. In accordance with EPA's final regulation, states have assumed a 20% reduction from AIM coatings source categories in their attainment and ROP plans. AIM coatings manufacturers were required to be in compliance with the final regulation within one year of promulgation, except for certain pesticide formulations which were given an additional year to comply. Thus all manufacturers were required to comply, at the latest, by September 2000. Industry confirmed in comments on the proposed AIM rule that 12 months between the issuance of the final rule and the compliance deadline would be sufficient to ''use up existing label stock'' and ''adjust inventories'' to conform to the rule. 63 FR 48848 (September 11, 1998). In addition, EPA determined that, after the compliance date, the volume of nonconforming products would be very low (less than one percent) and would be withdrawn from retail shelves anyway. Therefore, EPA believes that compliant coatings were in use by the Fall of 1999 with full reductions to be achieved by September 2000 and that it was appropriate for the states to take credit for a 20% emission reductions in their SIPs.

Autobody Refinish Coatings Rule: Consistent with a November 27, 1994 EPA policy,[8] many states claimed a 37% reduction from this source category based on a proposed rule. However, EPA's final rule, ''National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings,'' published on September 11, 1998 (63 FR 48806), did not regulate lacquer topcoats and will result in a smaller emission reduction of around 33% overall nationwide. The 37% emission reduction from EPA's proposed rule was an estimate of the total nationwide emission reduction. Since this number is an overall national average, the actual reduction achieved in any particular area could vary depending on the level of control which already existed in the area. For example, in California the reduction from the national rule is zero because California's rules are more stringent than the national rule. In the proposed rule, the estimated percentage reduction for areas that were unregulated before the national rule was about 40%. However as a result of the lacquer topcoat exemption added between proposal and final rule, the reduction is now estimated to be 36% for previously unregulated areas. Although Connecticut's post-1999 ROP SIP claims a 37 percent reduction from this rule, the large surplus NO_X reductions achieved by Connecticut's ROP plan easily cover the shortfall caused by the minor overestimation of credit from the federal automobile refinishing rule. Additionally, this minor overestimation is not likely to adversely impact Connecticut's attainment demonstration SIP. By taking a 37% reduction instead of a 36% reduction, Connecticut's SIP overstates VOC emission reductions in its severe area by 0.06 tpsd which is not significant when compared to total VOC emissions and VOC emission reductions for the area. EPA's best estimate of the reduction potential of the final rule was spelled out in a September 19, 1996 memorandum entitled ''Emissions Calculations for the Automobile Refinish Coatings Final Rule'' from Mark Morris to Docket No. A–95–18.

Consumer Products Rule: Consistent with a June 22, 1995 EPA guidance,[9] states claimed a 20% reduction from this source category based on EPA's proposed rule. The final rule, ''National Volatile Organic Compound Emission Standards for Consumer Products,'' (63 FR 48819), published on September 11, 1998, has resulted in a 20% reduction after the December 10, 1998 compliance date. Moreover, these reductions largely occurred by the Fall of 1999. In the consumer products rule, EPA determined, and the consumer products industry concurred, that a significant proportion of subject products have been reformulated in response to state regulations and in anticipation of the final rule. 63 FR 48819. Thus, while Connecticut did not adopt such regulations, it benefitted from the sale of reformulated products due to the actions of other states to regulate consumer products. In essence, industry reformulated the products covered by the federal consumer products rule in advance of the final rule. Therefore, EPA believes that complying products in accordance with the rule were in use by the Fall of 1999. It was appropriate for the states to take credit for a 20% emission reduction for the consumer products rule in their SIPs.

I. Enforcement of Control Programs

Comment: The attainment demonstrations do not clearly set out programs for enforcement of the various control strategies relied on for emission reduction credit.

Response: In general, state enforcement, personnel and funding program elements are contained in SIP revisions previously approved by EPA

[7] ''Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rules,'' March 22, 1995, from John S. Seitz, Director, Office of air Quality Planning and Standards for Air Division Directors, Regions I–X.

[8] ''Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule,'' November 27, 1994, John S. Seitz, Director OAQPS, to Air Division Directors, Regions I–X.

[9] ''Regulatory Schedule for Consumer and Commercial Products under section 183(e) of the Clean Air Act,'' June 22, 1995, John S. Seitz, Director of OAQPS, to Air Division Directors, Regions I–X.

under obligations set forth in section 110(a)(2)(C) of the Clean Air Act. Once approved by the EPA, there is no need for states to readopt and resubmit these programs with each and every SIP revision required by other sections of the Act. In addition, emission control regulations will also contain specific enforcement mechanisms, such as record keeping and reporting requirements, and may also provide for periodic state inspections and reviews of the affected sources. EPA's review of these regulations includes review of the enforceability of the regulations. Rules that are not enforceable are generally not approved by the EPA. To the extent that the ozone attainment demonstration and ROP plan depend on specific state emission control regulations these individual regulations have undergone review by the EPA in past approval actions or, to the extent they are being approved through this action, have undergone review in the current rulemaking.

J. Contingency Measures

Comment: The SIP for the Connecticut portion of the NY-NJ-CT severe ozone nonattainment area does not provide contingency measures to make up for any emission reduction shortfall, either in achievement of ROP milestones or for failure to attain, as required by sections 172(c)(9) and 182(c)(9) of the Clean Air Act.

Response: The Connecticut SIP does provide contingency measures for ROP as required by section 182(c)(9), but does not provide contingency measures for failure to attain as required by section 172(c)(9). The state's ROP contingency plan is discussed in detail in our August 10, 2001 document (66 FR 42172). We are approving Connecticut's demonstration that it meets the contingency measure provision of section 182(c)(9) of the Act, which requires contingency measures for serious and above milestone failures.

Connecticut still must meet the contingency measure provision of section 172(c)(9) of the Act, which pertains to failure to attain the ozone standard by the required date. But EPA is not obligated to approve such measures prior to approving the attainment demonstration, because the contingency measure requirement of section 172(c)(9) is independent from the attainment demonstration requirements under sections 172(c)(1) and 182(c)(2)(A). The section 172(c)(9) contingency measure requirement addresses the event that an area fails to attain the ozone NAAQS by the attainment date established in the SIP and has no bearing on whether a state has submitted a SIP that projects attainment of the ozone NAAQS. The attainment SIP provides a demonstration that attainment ought to be reached, but the contingency measure SIP requirement of section 179(c)(9) concerns what is to happen only if attainment is not actually achieved. The EPA acknowledges that contingency measures are an independently required SIP revision, but does not believe that submission of contingency measures is necessary before EPA may approve an attainment SIP.

Additionally, in the event that attainment is not achieved by 2007 there are a number of EPA measures that will achieve significant emission reductions that the SIP does not rely on or take credit for. These include continuing reductions from EPA's Tier 2 tailpipe standards and EPA's standards for a variety of non-road sources. The EPA has analyzed the Connecticut SIP and has estimated that the contingency obligation would be approximately 3.8 tons per summer day (tpsd) in ozone precursor emission reductions. Reductions from the federal non-road and the Tier 2 tailpipe standards during the time frame contingency measures would need to be implemented for failure to attain (i.e., by May 2009) [10] are estimated to be at least 5.5 tpsd, which would cover the contingency obligation for this area. More details on EPA's contingency measure analysis are included in the docket for the rulemaking action. While there is not an approved SIP contingency measure that would apply if the state failed to attain, EPA believes that existing federally enforceable measures would provide the necessary substantive relief.

K. MOBILE6 and Motor Vehicle Emissions Budgets

Comment 1: One commenter generally supports a policy of requiring motor vehicle emissions budgets to be recalculated when revised MOBILE models are released.

Response 1: The Connecticut attainment demonstration, which relies on Tier 2 emission reduction credit, contains a commitment to revise the 2007 motor vehicle emissions budgets within 1 year after MOBILE6 is released.

Comment 2: The revised budgets calculated using MOBILE6 will likely be submitted after the MOBILE5 budgets have already been approved. EPA's policy is that submitted SIPs may not replace approved SIPs.

Response 2: EPA proposed to change its policy in the July 28, 2000 SNPRM (65 FR 46383) to provide that the approval of the MOBILE5 budgets for conformity purposes would last only until MOBILE6 budgets had been submitted and found adequate. EPA is taking final action adopting this revised interpretation in this notice. In this way, the MOBILE6 budgets can apply for conformity purposes as soon as they are found adequate.

Comment 3: If a State submits additional control measures that affect the motor vehicle emissions budget but does not submit a revised motor vehicle emissions budget, EPA should not approve the attainment demonstration.

Response 3: EPA agrees. The motor vehicle emissions budgets in the Connecticut attainment demonstration reflect the motor vehicle control measures in the attainment demonstration. In addition, Connecticut has committed to submit new budgets as a revision to the attainment SIP consistent with any new measures submitted to fill any shortfall, if the additional control measures affect on-road motor vehicle emissions.

Comment 4: EPA should make it clear that the motor vehicle emissions budgets to be used for conformity purposes will be determined from the total motor vehicle emissions reductions required in the SIP, even if the SIP does not explicitly quantify a revised motor vehicle emissions budget.

Response 4: EPA will not approve SIPs without motor vehicle emissions budgets that are explicitly quantified for conformity purposes. The Connecticut attainment demonstration contains explicitly quantified motor vehicle emissions budgets which EPA has found adequate (65 FR 37778).

Comment 5: If a state fails to follow through on its commitment to submit the revised motor vehicle emissions budgets using MOBILE6, EPA could make a finding of failure to submit a portion of a SIP, which would trigger a sanctions clock under section 179.

Response 5: EPA agrees that if a state fails to meet its commitment, EPA could make a finding of failure to implement the SIP, which would start a sanctions clock under section 179 of the Clean Air Act.

Comment 6: If the budgets recalculated using MOBILE6 are larger than the MOBILE5 budgets, then attainment should be demonstrated again.

Response 6: As EPA proposed in its December 16, 1999 notices, we will work with states on a case-by-case basis if the new emissions estimates raise

[10] EPA policy provides that contingency measures should achieve a 3 percent reduction in emissions in the year following an EPA determination of a failure to attain or to meet a progress requirement.

issues about the sufficiency of the attainment demonstration.

Comment 7: If the MOBILE6 budgets are smaller than the MOBILE5 budgets, the difference between the budgets should not be available for reallocation to other sources unless air quality data show that the area is attaining, and a revised attainment demonstration is submitted that demonstrates that the increased emissions are consistent with attainment and maintenance. Similarly, the MOBILE5 budgets should not be retained (while MOBILE6 is being used for conformity demonstrations) unless the above conditions are met.

Response 7: EPA agrees that if recalculation using MOBILE6 shows lower motor vehicle emissions than MOBILE5, then these motor vehicle emission reductions cannot be reallocated to other sources or assigned to the motor vehicle emissions budget as a safety margin unless the area reassesses the analysis in its attainment demonstration and shows that it will still attain. In other words, the area must assess how its original attainment demonstration is impacted by using MOBILE6 vs. MOBILE5 before it reallocates any apparent motor vehicle emission reductions resulting from the use of MOBILE6. In addition, Connecticut has committed to submit new budgets based on MOBILE6, so the MOBILE5 budgets will not be retained in the SIP indefinitely.

Comment 8: We received a comment on whether the grace period before MOBILE6 is required in conformity determinations will be consistent with the schedules for revising SIP motor vehicle emissions budgets within 1 or 2 years of MOBILE6's release.

Response 8: This comment is not germane to this rulemaking, since the MOBILE6 grace period for conformity determinations is not explicitly tied to EPA's SIP policy and approvals. However, EPA understands that a longer grace period would allow some areas to better transition to new MOBILE6 budgets. EPA is considering the maximum 2-year grace period allowed by the conformity rule, and EPA will address this in the future when the final MOBILE6 emissions model and policy guidance is released.

Comment 9: One commenter asked EPA to clarify in the final rule whether MOBILE6 will be required for conformity determinations once new MOBILE6 budgets are submitted and found adequate.

Response 9: This comment is not germane to this rulemaking. However, it is important to note that EPA intends to clarify its policy for implementing MOBILE6 in conformity determinations when the final MOBILE6 model is released. EPA believes that MOBILE6 should be used in conformity determinations once new MOBILE6 budgets are found adequate.

Comment 10: One commenter did not prefer the additional option for a second year before the state has to revise the conformity budgets with MOBILE6, since new conformity determinations and new transportation projects could be delayed in the second year.

Response 10: EPA proposed the additional option to provide further flexibility in managing MOBILE6 budget revisions. The supplemental proposal did not change the original option to revise budgets within one year of MOBILE6's release. State and local governments can continue to use the 1-year option, if desired, or submit a new commitment consistent with the alternative 2-year option. EPA expects that state and local agencies have consulted on which option is appropriate and have considered the impact on future conformity determinations. Connecticut has committed to revise its budgets within 1 year of MOBILE6's release.

L. Measures for the 1-Hour NAAQS and for Progress Toward 8-Hour NAAQS

Comment: One commenter notes that EPA has been working toward promulgation of a revised 8-hour ozone National Ambient Air Quality Standard (NAAQS) because the Administrator deemed attaining the 1-hour ozone NAAQS is not adequate to protect public health. Therefore, EPA must ensure that measures be implemented now that will be sufficient to meet the 1-hour standard and that make as much progress toward implementing the 8-hour ozone standard as the requirements of the CAA and implementing regulations allow.

Response: The 1-hour standard remains in effect for all of these areas, and the SIPs that have been submitted are for the purpose of achieving that NAAQS. Congress has provided the states with the authority to choose the measures necessary to attain the NAAQS and EPA cannot second guess the states' choice if it determines that the SIP meets the requirements of the CAA. EPA believes that the SIPs for the severe areas meet the requirements for attainment demonstrations for the 1-hour standard and thus, could not disapprove them even if EPA believed other control requirements might be more effective for attaining the 8-hour standard. However, EPA generally believes that emission controls implemented to attain the 1-hour ozone standard will be beneficial towards attainment of the 8-hour ozone standard as well. This is particularly true regarding the implementation of NO_X emission controls resulting from EPA's NO_X SIP Call.

Finally, EPA notes that although the 8-hour ozone standard has been adopted by the EPA, implementation of this standard has been delayed while certain aspects of the standard remain before the United States Circuit Court of Appeals. The states and the EPA have yet to define the 8-hour ozone nonattainment areas and the EPA has yet to issue guidance and requirements for the implementation of the 8-hour ozone standard.

M. Attainment and Post '99 Rate of Progress Demonstrations

Comment: One commenter claims that the plans fail to demonstrate emission reductions of 3% per year over each 3-year period between November 1999 and November 2002; and November 2002 and November 2005; and the 2-year period between November 2005 and November 2007, as required by 42 U.S.C. 7511a(c)(2)(B). The states have not even attempted to demonstrate compliance with these requirements, and EPA has not proposed to find that they have not been met.

The EPA has absolutely no authority to waive the statutory mandate for 3% annual reductions. The statute does not allow EPA to use the NO_X SIP call or 126 orders as an excuse for waiving rate-of-progress (ROP) deadlines. The statutory ROP requirement is for emission reductions—not ambient reductions. Emission reductions in upwind states do not waive the statutory requirement for 3% annual emission reductions within the downwind nonattainment area.

Response: These comments center on the concern that for many areas, EPA did not propose approval of the post-99 ROP demonstrations at the same time as EPA proposed action on the area's attainment demonstration. For those areas EPA has since proposed approval of the post-99 ROP SIPs. Under no condition is EPA waiving the statutory requirement for an average of 3% annual emission reductions over each 3-year ROP period. In this action EPA is approving the Post-99 plan for the Connecticut portion of the NY–NJ–CT severe area, as achieving 3% average annual reductions over each 3-year period (or 2-year period for 2005–2007) until the area's attainment date. Moreover, EPA has not provided that areas may rely on upwind reductions for purposes of meeting the ROP requirements. Rather, states are relying

on in-state NO_X and VOC measures for meeting the ROP requirement.

IV. Final Action

As described above, EPA does not believe any of the comments we received on the proposals published for the attainment demonstration for the Connecticut portion of the NY–NJ–CT severe area should affect EPA's determination that the SIP is fully approvable. Thus, EPA is approving several SIP revisions that relate to attainment of the one-hour ozone standard in the Connecticut portion of the NY–NJ–CT severe area. The SIP revisions include Connecticut's one-hour ozone attainment demonstration for the state's portion of the NY–NJ–CT severe area, various enforceable commitments, a RACM analysis, and the post-1999 ROP plan. Connecticut's one-hour ozone attainment demonstration includes 2007 motor vehicle emissions budgets, which EPA is approving until new budgets using MOBILE 6 or in conjunction with new mobile source measures to fill the shortfall are submitted and found adequate. Also, EPA is approving the motor vehicle emissions budgets for 2002 and 2005 contained in Connecticut's post-1999 ROP plan for transportation conformity purposes.

The enforceable commitments we are approving include: (1) A commitment to adopt and submit by October 31, 2001 additional necessary regional control measures to offset the shortfall in emission reductions necessary to attain the one-hour ozone standard by November 2007; (2) a commitment to adopt and submit by October 31, 2001 additional necessary intrastate control measures to offset the shortfall in emission reductions necessary to attain the one-hour ozone standard by November 2007; (3) a commitment to adopt and submit additional restrictions on VOC emissions from mobile equipment and repair operations; (4) a commitment to adopt and submit additional requirements to reduce VOC emissions from certain consumer products; (5) a commitment to revise the attainment-level 2007 motor vehicle emissions budgets within one year of the date that EPA releases the final version of their motor vehicle emissions model, MOBILE6; (6) a commitment to recalculate and submit revised motor vehicle emissions budgets if any additional motor vehicle control measures are adopted to address the shortfall; and () a commitment to perform a mid-course review of the attainment status of the one-hour ozone nonattainment area by December 31, 2004. The mid-course review commitment relates to the Greater Connecticut one-hour ozone nonattainment area as well.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 February 11, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen

dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 30, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA—New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart H—Connecticut

2. Section 52.377 is amended by revising paragraph (b) and adding paragraphs (c) and (d) to read as follows:

§ 52.377 Control strategy: Ozone

* * * * * *

(b) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on September 16, 1998 and February 8, 2000. The revisions are for the purpose of satisfying the attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act for the Greater Connecticut serious ozone nonattainment area. The revision establishes an attainment date of November 15, 2007 for the Greater Connecticut serious ozone nonattainment area. This revision establishes motor vehicle emissions budgets for 2007 of 30.0 tons per day of volatile organic compounds (VOC) and 79.6 tons per day of nitrogen oxides (NO_X) to be used in transportation conformity in the Greater Connecticut serious ozone nonattainment area, until revised budgets pursuant to MOBILE6 are submitted and found adequate. In the revision, Connecticut commits to revise their VOC and NO_X motor vehicle emissions budgets within one year of the release of MOBILE6. Connecticut also commits to conduct a mid-course review to assess modeling and monitoring progress achieved towards the goal of attainment by 2007, and submit the results to EPA by December 31, 2004.

(c) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on October 15, 2001. These revisions are for the purpose of satisfying the rate of progress requirement of section 182 (c)(2)(B) through 2007, and the contingency measure requirements of section 182 (c)(9) of the Clean Air Act, for the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area. These revisions also establish motor vehicle emissions budgets for 2002 of 15.20 tons per day of VOC and 38.39 tons per day of NO_X, and for 2005 of 11.42 tons per day of VOC and 29.01 tons per day of NO_X to be used in transportation conformity in the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area.

(d) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on September 16, 1998, February 8, 2000 and October 15, 2001. The revisions are for the purpose of satisfying the attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act for the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area. These revisions also establish motor vehicle emissions budgets for 2007 of 9.69 tons per day of VOC and 23.68 tons per day of NO_X to be used in transportation conformity in the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area, until revised budgets are submitted and found adequate pursuant to MOBILE6, or in conjunction with the additional mobile source measures, if any, to fulfill the shortfall. Connecticut commits to revise their 2007 VOC and NO_X transportation conformity budgets within one year of the release of MOBILE6, for both 1-hour ozone nonattainment areas. Connecticut commits to recalculate and submit revised motor vehicle emissions budgets, if any additional motor vehicle control measures are adopted to address the shortfall. Connecticut commits to adopt and submit by October 31, 2001, additional necessary regional control measures to offset the emission reduction shortfall in order to attain the one-hour ozone standard by November 2007. Connecticut commits to adopt and submit by October 31, 2001, additional necessary intrastate control measures to offset the emission reduction shortfall in order to attain the one-hour ozone standard by November 2007. Connecticut commits to adopt and submit: (1) additional restrictions on VOC emissions from mobile equipment and repair operations; and (2) requirements to reduce VOC emissions from certain consumer products. Connecticut also commits to conduct a mid-course review to assess modeling and monitoring progress achieved towards the goal of attainment by 2007, and submit the results to EPA by December 31, 2004.

[FR Doc. 01–30458 Filed 12–10–01; 8:45 am]

BILLING CODE 6450–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[VT 022–1225a; FRL–7116–6]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Vermont; Negative Declaration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the Sections 111(d)/129 negative declaration submitted by the Vermont Agency of Natural Resources (ANR) on June 5, 2001. This negative declaration adequately certifies that there are no existing commercial and industrial solid waste incineration units (CISWIs) located within the boundaries of the state of Vermont. EPA publishes regulations under Sections 111(d) and 129 of the Clean Air Act requiring states to submit control plans to EPA. These state control plans show how states intend to control the emissions of designated pollutants from designated facilities (*i.e.,* CISWIs). The state of Vermont submitted this negative declaration in lieu of a state control plan.

DATES: This direct final rule is effective on February 11, 2002 without further notice unless EPA receives significant adverse comment by January 10, 2002. If EPA receives adverse comment we 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: You should address your written comments to: Mr. Steven Rapp, Chief, Air Permit Programs Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023.

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.

FOR FURTHER INFORMATION CONTACT: John J. Courcier, (617) 918–1659.

SUPPLEMENTARY INFORMATION:

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