

afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this final rule to the address noted at the beginning of this rulemaking.

#### Drafting Information

The primary authors of this regulation are Tony Sisto, Superintendent, Fort Vancouver NHS; Dennis Burnett, Washington Office of Ranger Activities, NPS; and Michael Tiernan, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior, Washington, D.C.

#### Paperwork Reduction Act

This rulemaking does not contain collections of information requiring approval by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

The NPS has determined that this proposed rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

- (a) increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;
- (b) introduce incompatible uses which compromise the nature and character of the area or causing physical damage to it;
- (c) conflict with adjacent ownerships or land uses; or
- (d) cause a nuisance to adjacent owners or occupants.

Based on this determination, this regulation is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) has been prepared.

#### List of Subjects in 36 CFR Part 1

National parks, Penalties, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

### PART 1—GENERAL PROVISIONS

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

Authority: 16 U.S.C. 1, 3, 460 1-6a(e), 469(k); D.C. Code 8-137, 40-721 (1981).

2. Section 1.3 is revised to read as follows:

#### § 1.3 Penalties

(a) A person convicted of violating a provision of the regulations contained in Parts 1 through 7, 12 and 13 of this chapter, within a park area not covered in paragraphs (b) or (c) of this section, shall be punished by a fine as provided by law, or by imprisonment not exceeding 6 months, or both, and shall be adjudged to pay all costs of the proceedings.

(b) A person who knowingly and willfully violates any provision of the regulations contained in parts 1 through 5, 7 and 12 of this chapter, within any national military park, battlefield site, national monument, or miscellaneous memorial transferred to the jurisdiction of the Secretary of the Interior from that of the Secretary of War by Executive Order No. 6166, June 10, 1933, and enumerated in Executive Order No. 6228, July 28, 1933, shall be punished by a fine as provided by law, or by imprisonment for not more than 3 months, or by both.

Note: These park areas are enumerated in a note under 5 U.S.C. 901.

(c) A person convicted of violating any provision of the regulations contained in parts 1 through 7 of this chapter, within a park area established pursuant to the Act of August 21, 1935, 49 Stat. 666, shall be punished by a fine as provided by law and shall be adjudged to pay all costs of the proceedings. 16 U.S.C. 462.

(d) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this section, a person convicted of violating § 2.23 of this chapter shall be punished by a fine as provided by law. 16 U.S.C. 460.

Dated: October 20, 1995.

George T. Frampton, Jr.,

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 96-1748 Filed 1-29-96; 8:45 am]

BILLING CODE 4310-70-M

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[FRL-5321-4]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Massachusetts; Change in National Policy Regarding Applicability of Conformity Requirements to Redesignation Requests

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

**ACTION:** Direct final rule.

**SUMMARY:** On December 12, 1994, the Massachusetts Department of Environmental Protection (MA DEP) submitted a request to redesignate the Boston metropolitan area, including the communities of Boston, Cambridge, Chelsea, Everett, Malden, Medford, Quincy, Revere, and Somerville, from nonattainment to attainment for carbon monoxide (CO). Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is approving the Massachusetts request because it meets the redesignation requirements set forth in the CAA.

In addition, EPA is approving two related State Implementation Plan (SIP) submissions by Massachusetts DEP. On November 15, 1993, Massachusetts DEP submitted a final 1990 base year emission inventory for CO emissions, which includes emissions data for all sources of CO in Massachusetts' CO nonattainment areas, as well as CO emissions for the entire state. On October 29, 1993, Massachusetts DEP submitted an oxygenated gasoline program for the Boston consolidated metropolitan statistical area (CMSA). In this action, EPA is approving the CO emissions inventory and oxygenated fuels SIP submissions.

**DATES:** This final rule will be effective April 1, 1996 unless critical or adverse comments are received by February 29, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be sent to Susan Studlien, Acting Director of the Air, Pesticides and Toxics Management Division, at the EPA Regional Office listed below. Copies of the redesignation request and the State of Massachusetts' submittal are available for public review during normal business hours at the addresses listed below.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and; Environmental Protection Agency, One Congress Street, Boston, MA 02203.

**FOR FURTHER INFORMATION CONTACT:** Wing Chau of the EPA Region I Air, Pesticides and Toxics Management Division at (617) 565-3570.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In a March 15, 1991 letter to the EPA Region I Administrator, the Governor of Massachusetts recommended the Boston metropolitan area, which covers the nine surrounding cities (the "Boston area"), be designated as nonattainment for CO as required by section 107(d)(1)(A) of the 1990 Clean Air Act Amendments (CAA) (Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q). The area was designated nonattainment and classified as "moderate" under the provisions outlined in sections 186 and 187 of the CAA. (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR part 81, § 81.322.) Because the area had a design value of 9.8 ppm (based on 1986 data), the area was considered moderate. The CAA established an attainment date of December 31, 1995, for all moderate CO areas. The Boston area has ambient monitoring data showing attainment of the CO NAAQS, since 1988. Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on December 12, 1994 the State of Massachusetts submitted a CO redesignation request and a maintenance plan for the Boston area. Massachusetts submitted evidence that public hearings were held on September 29, 1994 in Springfield and on September 30, 1994 in Boston.

**II. Evaluation Criteria**

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

1. The area must have attained the applicable NAAQS;
2. The area must have a fully approved SIP under section 110(k) of CAA;
3. The air quality improvement must be permanent and enforceable;
4. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA;
5. The area must meet all applicable requirements under section 110 and Part D of the CAA.

**III. Review of State Submittal**

On January 17, 1995, EPA-New England determined that the information received from the MA DEP constituted a complete redesignation request under the general completeness criteria of 40 CFR part 51, appendix V, §§ 2.1 and 2.2.

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

**1. Attainment of the CO NAAQS**

Massachusetts has quality-assured CO ambient air monitoring data showing that the Boston area has met the CO NAAQS. The Massachusetts request is based on an analysis of quality-assured CO air monitoring data which is relevant to the maintenance plan and to the redesignation request. To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard per year over at least two consecutive years. The ambient air CO monitoring data for calendar year 1988 through calendar year 1993, relied upon by Massachusetts in its redesignation request, shows no violations of the CO NAAQS in the Boston area. The most recent ambient CO data shows no exceedances in the calendar years 1994 and 1995. Because the area has complete quality assured data showing no more than one exceedance of the standard per year over at least two consecutive years (1991 and 1992), the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.9 and appendix C). Massachusetts has committed to continue monitoring in this area in accordance with 40 CFR part 58.

**2. Fully Approved SIP Under Section 110(k) of the CAA**

Massachusetts's CO SIP is fully approved by EPA as meeting all the requirements of Section 110(a)(2)(I) of the Act, including the requirements of Part D (relating to nonattainment), which were due prior to the date of Massachusetts' redesignation request. Massachusetts' 1982 CO SIP was fully approved by EPA in 1983 as meeting the CO SIP requirements in effect under the CAA at that time. The 1990 CAAA required that nonattainment areas achieve specific new requirements depending on the severity of the nonattainment classification. Requirements for the Boston area include the preparation of a 1990 emission inventory with periodic

updates, adoption of an oxygenated fuels program, the development of contingency measures, and development of conformity procedures. Each of these requirements added by the 1990 Amendments to the CAA are discussed in greater detail below.

Consistent with the October 14, 1994 EPA guidance from Mary D. Nichols entitled "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," EPA is not requiring full approval of a Part D NSR program by Massachusetts as a prerequisite to redesignation to attainment. Under this guidance, nonattainment areas may be redesignated to attainment notwithstanding the lack of a fully-approved Part D NSR program, so long as the program is not relied upon for maintenance. Massachusetts has not relied on a NSR program for CO sources to maintain attainment. Although EPA is not treating a Part D NSR program as a prerequisite for redesignation, it should be noted that EPA is in the process of taking final action on the State's revised NSR regulation, which includes requirements for CO nonattainment areas. Because the Boston area is being redesignated to attainment by this action, Massachusetts' Prevention of Significant Deterioration (PSD) requirements will be applicable to new or modified sources in the Boston area.

**A. Emission Inventory**

Massachusetts submitted its base year inventory to EPA on November 15, 1993, which included estimates for CO at the statewide, county and CO nonattainment city/town levels, as required under Section 187(a)(1) of the CAA. EPA is approving the CO portion of the Massachusetts Base Year emission inventory with this redesignation request.

Section 172(c)(3) of the CAA requires that nonattainment plan provisions include a comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Massachusetts included the requisite inventory in the CO SIP. The base year for the inventory was 1990, using a three month CO season of November 1990 through January 1991. Stationary point sources, stationary area sources, on-road mobile sources, and nonroad mobile sources of CO were included in the inventory. Stationary sources with emissions of greater than 100 tons per year were also included in the inventory.

The following list presents a summary of the CO peak season daily emissions estimates in tons per winter day by

source category: Point Sources, 32.77 tons per day; Area Sources, 711.95 tons per day; Mobile On-Road Sources, 3,387.69 tons per day; Mobile Nonroad Sources, 109.36 tons per day; Total Sources, 4,241.77 tons per day. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

Section 110(k) of the CAA sets out provisions governing the EPA's review of base year emission inventory submittals in order to determine approval or disapproval under section 187(a)(1). The EPA is granting approval of the Massachusetts 1990 base year CO emissions inventory submitted on November 15, 1993, based on the EPA's technical review of the CO inventory. For further details, the reader is referred to the Technical Support Document, which is available for review at the addresses provided above.

#### B. Oxygenated Gasoline

Motor vehicles are significant contributors of CO emissions. An important measure toward reducing these emissions is the use of cleaner-burning oxygenated gasoline. Extra oxygen, contained within the oxygenate in the fuel, enhances fuel combustion and helps to offset fuel-rich operating conditions, particularly during vehicle starting, which are more prevalent in the winter.

Section 211(m) of the CAA requires that CO nonattainment areas, with a design value of 9.5 parts per million based on data for the 2-year period of 1988 and 1989, submit a SIP revision for an oxygenated fuel program for such area. The oxygenated fuel requirement must apply to all fuel refiners or marketers who sell or dispense gasoline in the Metropolitan Statistical area (MSA) or Consolidated Statistical Area (CMSA) in which the nonattainment area is located. The Boston area has a design value above 9.5 parts per million based on 1986 and 1987 data (1988 and 1989 data was not used due to insufficient data at one of the CO monitors) and consequently were subject to the requirement to adopt an oxygenated fuel program. Massachusetts submitted an oxygenated fuel SIP revision for the Boston CO nonattainment area to EPA on October 29, 1993. As noted in Massachusetts' redesignation request, the State intends to relegate the oxygenated fuel program to contingency status upon EPA's approval of Massachusetts' redesignation request. As part of this action, EPA is approving Massachusetts' oxygenated fuel program for the Boston CO area.

The oxygenated gasoline program is one in which all oxygenated gasoline must contain a minimum oxygen content of 2.7 percent by weight of oxygen. Under section 211(m)(4) of the CAA, EPA also issued requirements for the labeling of gasoline pumps used to dispense oxygenated gasoline, as well as guidelines on the establishment of an appropriate control period. These labeling requirements and control period guidelines may be found in 57 FR 47849, dated October 20, 1992. Massachusetts' oxygenated gasoline regulation requires the minimum 2.7 percent oxygen content in the Boston CMSA. The regulation also contains the necessary labeling regulations, enforcement procedures, and oxygenate test methods. For a more detailed description of the manner in which Massachusetts' oxygenated fuels program meets the requirements of Section 211(m) of the CAA, the reader is referred to the Technical Support Document, which is available for review at the addresses provided above.

As mentioned above, Massachusetts has chosen to convert its oxygenated fuels requirement in the Boston CMSA to a contingency measure in its maintenance plan upon redesignation. Because Massachusetts attained the CO standard based on data before the oxygenated fuel program was implemented in the Boston CMSA, oxygenated gasoline was not necessary to reach attainment. In its demonstration of maintenance, described below, the State has shown that oxygenated gasoline in the Boston CMSA is not necessary for continued maintenance of the CO NAAQS. Consequently, by this action, EPA is both approving Massachusetts' oxygenated fuels regulation and simultaneously approving its use as a contingency measure for the Boston area.

#### C. Conformity

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

EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and final general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that the States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to § 51.396 of the transportation conformity rule, the State of Massachusetts was required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, pursuant to § 51.851 of the general conformity rule, Massachusetts was required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Massachusetts submitted its transportation conformity SIP revision to EPA on December 30, 1994. This SIP was determined to be administratively and technically complete on March 16, 1995; however, this SIP has not been fully approved by EPA. Massachusetts has not submitted its general conformity SIP revision.

Although this redesignation request was submitted to EPA after the due dates for the SIP revisions for transportation conformity [58 FR 62188] and general conformity [58 FR 63214] rules, EPA believes it is reasonable to interpret the conformity requirements as not being applicable requirements for purposes of evaluating the redesignation request under section 107(d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act continues to apply to areas after redesignation to attainment. Therefore, the State remains obligated to adopt the transportation and general conformity rules even after redesignation and would risk sanctions for failure to do so. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and part D, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in adopting State rules does not relieve an area from the obligation to implement conformity requirements.

Because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if State rules are not yet adopted, EPA believes it is reasonable to view these requirements as not being applicable requirements for purposes of evaluating a redesignation request.

Therefore, with this notice, EPA is modifying its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) concerning the applicable requirements for purposes of reviewing a carbon monoxide redesignation request.

Under this new policy, for the reasons just discussed, EPA believes that the CO redesignation request for the Boston area may be approved notwithstanding the lack of submitted and approved state transportation and general conformity rules.

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

EPA approved Massachusetts' CO SIP under the 1977 CAA. Emission reductions achieved through the implementation of control measures contained in that SIP are enforceable. These measures were: transportation plan reviews, a basic Inspection and Maintenance Program, right turn on red, and the Federal Motor Vehicle Control Program. As discussed above, the State initially attained the NAAQS in 1988 with monitored attainment through the

1994-1995 CO season. This indicates that the improvements are due to the permanent and enforceable measures contained in the 1982 CO SIP.

The State of Massachusetts has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to local economic downturn. EPA finds that the combination of certain existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed the area to attain the NAAQS.

**4. Fully Approved Maintenance Plan Under Section 175A**

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment.

The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. In this notice, EPA is

approving the State of Massachusetts' maintenance plan for the Boston area because EPA finds that Massachusetts' submittal meets the requirements of section 175A.

**A. Attainment Emission Inventory**

As previously noted, on November 15, 1993, the State of Massachusetts submitted a comprehensive inventory of CO emissions for the Boston area. The inventory includes emissions from area, stationary, and mobile sources using 1990 as the base year for calculations.

The State submittal contains the detailed inventory data and summaries by county and source category. The comprehensive base year emissions inventory was submitted in the National Emission Data System format. This inventory was prepared in accordance with EPA guidance.

Although the 1990 inventory can be considered representative of attainment conditions because the NAAQS was not violated during 1990, Massachusetts established CO emissions for the attainment year, 1993, as well as four forecast years out to the year 2010 (1995, 2000, 2005, and 2010) in their redesignation request. These estimates were derived from the State's 1990 emissions inventory. The future emission estimates are based on assumptions about economic and vehicle miles travelled growth. These assumptions are documented in the Massachusetts Growth Factors report dated November 1993.

1990 CO BASE YEAR EMISSIONS INVENTORY BOSTON NONATTAINMENT AREA (TONS PER DAY)

Year	Area	Nonroad	Mobile	Point	Total
1990	126.76	59.04	343.41	7.62	536.83

BOSTON NONATTAINMENT AREA CO EMISSIONS INVENTORY SUMMARY (TONS PER DAY)

Year	Area	Nonroad	Mobile	Point	Total
1990	126.76	59.04	343.41	7.62	536.83
1993	128.32	59.823	305.43	7.96	501.53
1995	129.35	60.344	280.10	8.19	477.98
2000	131.20	62.995	147.56	8.87	350.625
2005	134.39	64.961	125.93	9.69	334.97
2010	137.93	66.695	121.75	10.05	336.425

**B. Demonstration of Maintenance-Projected Inventories**

Total CO emissions were projected from 1990 base year out to 2010. These projected inventories were prepared in accordance with EPA guidance. Massachusetts will not implement the Oxygenated Fuel program in the Boston CMSA unless a violation is measured. The projections show that calculated CO

emissions, assuming no oxygenated fuels program, are not expected to exceed the level of the base year inventory during this time period. Therefore, it is anticipated that the Boston area will maintain the CO standard without the program, and the oxygenated fuel program would not need to be implemented following

redesignation, except as a contingency measure.

**C. Verification of Continued Attainment**

Continued attainment of the CO NAAQS in the Boston area depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The State has also committed to

submit periodic inventories of CO emissions every three years.

#### D. Contingency Plan

The level of CO emissions in the Boston area will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Section 175A(d) of the CAA requires that the contingency provisions include a requirement that the State implement all measures contained in the SIP prior to redesignation. Therefore, Massachusetts has provided contingency measures with a schedule for implementation in the event of a future CO air quality problem. The plan contains triggering mechanisms to determine when contingency measures are needed.

Massachusetts has developed a contingency plan which contains a mix of contingency measures that will address site specific CO problems and regional CO emissions. The first set of contingency measures deals with localized CO problems, which is either an engineering fix or traffic flow improvement at any site which triggers the need for the contingency measure. The second set of contingency measures deals with regional CO emissions, which include the implementation of an oxygenated fuels program throughout the Boston CMSA, implementation of an enhanced inspection and maintenance program and implementation of travel demand measures.

In order to be an adequate maintenance plan, the plan should include at least one contingency measure that will go into effect with a triggering event. Massachusetts is relying largely on a contingency measure that is expected to be implemented regardless of any triggering event, namely, enhanced Inspection and Maintenance (I/M). Massachusetts is implementing I/M to meet other requirements of the CAA and it has the additional benefit of reducing CO emissions. Massachusetts has two measures that will not go into effect unless a triggering event occurs, namely oxygenated fuels and traffic flow improvements.

#### E. Subsequent Maintenance Plan Revisions

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

provide for maintenance for an additional ten years.

#### 5. Meeting Applicable Requirements of Section 110 and Part D

In Section III.2. above, EPA sets forth the basis for its conclusion that Massachusetts has a fully approved SIP which meets the applicable requirements of Section 110 and Part D of the CAA.

#### Final Action

EPA is approving the Boston CO maintenance plan because it meets the requirements set forth in section 175A of the CAA. In addition, the Agency is approving the request and redesignating the Boston CO area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA is also approving Massachusetts' 1990 base year CO emissions inventory and the State's oxygenated gasoline program for the Boston CMSA. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments.

However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, by February 29, 1996 adverse or critical comments are received. If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 1, 1996.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The CO SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the CO NAAQS. This final redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the CO emission limitations and restrictions

contained in the approved CO SIP. Changes to CO SIP regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of non-implementation (section 179(a) of the CAA) and in a SIP deficiency call made pursuant to sections 110(a)(2)(H) and 110(k)(2) of the CAA.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, it does not have any economic impact on any small entities. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities.

Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Accordingly, I certify that the approval of the redesignation request will not have an impact on any small entities.

#### Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 25, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A and section 187(a)(1) of the Clean Air Act. The rules and commitments approved in this action may bind State, local and tribal governments to perform certain actions and also may ultimately

lead to the private sector being required to certain duties. To the extent that the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as mandate upon the private sector, EPA's action will impose no new requirements under State law; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, results from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, and Wilderness areas.

Dated: September 29, 1995.

John P. DeVillars,

Regional Administrator.

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. 7401-7671q.

**Subpart W—Massachusetts**

2. Section 52.1120 is amended by adding paragraph (c)(107) to read as follows:

**§ 52.1120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(107) Massachusetts submitted the Oxygenated Gasoline Program on October 29, 1993. This submittal satisfies the requirements of section 211(m) of the Clean Air Act, as amended.

(i) Incorporation by reference.

(A) Letter dated October 29, 1993 which included the oxygenated gasoline program, amendments to the Massachusetts Air Pollution Control Regulations, 310 CMR 7.00, with an effective date of March 1, 1994, requesting that the submittal be approved and adopted as part of Massachusetts' SIP.

(ii) Additional materials.

(A) The Technical Support Document for the Redesignation of the Boston Area as Attainment for Carbon Monoxide submitted on December 12, 1994.

3. Section 52.1132 is added to read as follows:

**§ 52.1132 Control strategy: Carbon Monoxide.**

(a) Approval—On November 13, 1992, the Massachusetts Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan for the 1990 base year emission inventory. The inventory was submitted by the State of Massachusetts to satisfy Federal requirements under section 182(a)(1) of the Clean Air Act as amended in 1990, as a revision to the carbon monoxide State Implementation Plan.

(i) Approval—On December 12, 1994, the Massachusetts Department of Environmental Protection submitted a request to redesignate the Boston Area carbon monoxide nonattainment area to attainment for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act,

as amended in 1990. Elements of the section 175A maintenance plan include a base year (1993 attainment year) emission inventory for carbon monoxide, a demonstration of maintenance of the carbon monoxide NAAQS with projected emission inventories to the year 2010 for carbon monoxide, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the carbon monoxide NAAQS (which must be confirmed by the State), Massachusetts will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measures includes an enhanced motor vehicle inspection and maintenance program and implementation of the oxygenated fuels program. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively. The redesignation meets the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Massachusetts Carbon Monoxide State Implementation Plan for the above mentioned area.

**PART 81—[AMENDED]**

**Subpart C—Section 107 Attainment Status Designations**

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

Authority: 42 U.S.C. 7401-7671q.

2. In § 81.322, the table for "Massachusetts-Carbon Monoxide" is revised to read as follows:

**§ 81.322 Massachusetts.**

\* \* \* \* \*

MASSACHUSETTS-CARBON MONOXIDE

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Boston area:				
Middlesex County (part) Cities of: Cambridge, Everett, Malden, Medford, and Somerville.	April 1, 1996 .....	Attainment.	.....	
Norfolk County (part) Quincy City .....	April 1, 1996 .....	Attainment.	.....	
Suffolk County (part) Cities of: Boston, Chelsea, and Revere.	April 1, 1996 .....	Attainment.	.....	
Lowell area:				
Middlesex County (part) Lowell City .....	.....	Nonattainment .....	.....	Not classified.
Springfield area:				
Hampden County (part) Springfield City .....	.....	Nonattainment .....	.....	Not classified.
Waltham area:				
Middlesex County (part) Waltham City .....	.....	Nonattainment .....	.....	Not classified.
Worcester area:				
Worcester County (part) City of Worcester .....	.....	Nonattainment .....	.....	Not classified.

MASSACHUSETTS-CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
AQCR 042 Hartford-New Haven-Springfield .....	.....	Unclassifiable/Attainment.	.....	
Franklin County:				
Hampden County (part):				
Cities of: Chicopee, Holyoke, and Westfield. Townships of: Agawam, Blandford, Brimfield, Chester, East Longmeadow, Granville, Hampden, Holland, Longmeadow, Ludlow, Monson, Montgomery, Palmer, Russell, Southwick, Tolland, Wales, West Springfield, and Wilbraham.				
Hampshire County (part):				
City of Northampton. Townships of: Amherst, Belchertown, Chesterfield, Cummington, Eastampton, Goshen, Granby, Hadley, Hatfield, Huntington, Middlefield, Pelham, Southampton, South Hadley, Ware, Westhampton, Williamsburg, and Worthington.				
AQCR 117 Berkshire Intrastate Berkshire County ...	.....	Unclassifiable/Attainment.	.....	
AQCR 118 Central Massachusetts Intrastate .....	.....	Unclassifiable/Attainment.	.....	
Middlesex County (part):				
Townships of: Ashby, Shirley, and Townsend				
Worcester County (part):				
Cities of: Leominster, Fitchburg, and Gardner. Townships of: Ashburnham, Athol, Auburn, Barre, Berlin, Blackstone, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, East Holden, Hopedale, Hubbardstown, Lancaster, Leicester, Lunenburg, Mendon, Millbury, Millville, New Braintree, Northborough, Northbridge, North Brookfield, Oakham, Oxford, Paxton, Petersham, Phillipston, Princeton, Royalston, Rutland, Shewsbury, Southbridge, Spencer, Sterling, Sutton, Templeton, Upton, Uxbridge, Warren, Webster, Westborough, West Boylston, West Brookfield, Westminster, and Winchendon				
AQCR 119 Metropolitan Boston Intrastate .....	.....	Unclassifiable/Attainment.	.....	

MASSACHUSETTS-CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Essex County (part): Cities of: Beverly, Gloucester, Lynn, Peabody, and Salem. Townships of: Danvers, Essex, Ipswich, Lynnfield, Manchester, Marblehead, Middletown, Nahant, Rockport, Saugus, Swampscott, Topsfield, and Wenham.	.....	.....	.....	
Middlesex County (part): Cities of: Marlborough, Melrose, Newton, and Woburn. Townships of: Acton, Arlington, Ashland, Bedford, Belmont, Boxborough, Burlington, Concord, Framingham, Holliston, Hopkinton, Hudson, Lexington, Lincoln, Maynard, Natick, North Reading, Reading, Sherborn, Stoneham, Stow, Sudbury, Wakefield, Watertown, Wayland, Wilmington, and Winchester.				
Norfolk County (part): Townships of: Avon, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Holbrook, Medfield, Millis, Milton, Needham, Norfolk, Norwood, Randolph, Sharon, Stoughton, Walpole, Wellesley, Westwood, and Weymouth.	.....	.....	.....	
Plymouth County: City of Brockton. Townships of: Abington, Bridgewater, Duxbury, East Bridgewater, Hanover, Hanson, Hingham, and Hull..				
AQCR 120 Metropolitan Providence Interstate .....	.....	Unclassifiable/Attainment.	.....	
Barnstable County (part): Townships of: Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet, and Yarmouth.				
Bristol County (part) Cities of: Attleboro, Fall River, New Bedford, and Taunton. Townships of: Acushnet, Berkley, Dartmouth, Dighton, Fairhaven, Freetown, Mansfield, North Attleborough, Norton, Raynham, Rehoboth, Seekonk, Somerset, Swansea, and Westport.	.....	.....	.....	
Dukes County (part): Townships of: Chilmark, Edgartown, Gay Head, Gosnold, Oak Bluffs, Tisbury, and West Tisbury.	.....	.....	.....	
Norfolk County (part): Townships of: Bellingham, Foxborough, Franklin, and Wrenton.	.....	.....	.....	
Plymouth County (part): Townships of: Carver, Halifax, Kingston, Lakeville, Marion, Mattapoisett, Middleborough, Plymouth, Plympton, Rochester, and Warham.				
Worcester County (part) Milford Township. AQCR 121 Merrimack Valley-S New Hampshire .....	.....	Unclassifiable/Attainment.	.....	

MASSACHUSETTS-CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Essex County (part): Townships of: Andover, Amesbury, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, Newbury, Newburyport, North Andover, Rowley, Salisbury, and West Newbury.				
Middlesex County (part): Townships of: Ayer, Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, Pepperell, Tewksbury, Tyngsborough, and Westford.				

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

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**40 CFR Parts 52 and 81**

[SIPTRAX No. PA075-4001; PA075-4002; PA024-4005; FRL-5329-1]

**Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Redesignation of the Philadelphia County Carbon Monoxide Area to Attainment and Approval of the Area's Maintenance Plan and the Philadelphia County 1990 Base Year Carbon Monoxide Emission Inventory; Commonwealth of Pennsylvania**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a maintenance plan and a request to redesignate part of Philadelphia County from nonattainment to attainment for carbon monoxide (CO) and is also approving the 1990 base year CO emissions inventory for Philadelphia County. The maintenance plan, redesignation request and 1990 base year CO emissions inventory were submitted by the Commonwealth of Pennsylvania. Under the 1990 amendments of the Clean Air Act (CAA) designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is approving the Pennsylvania request because it meets the maintenance plan and redesignation requirements set forth in the CAA. This action is being taken under section 110 of the CAA.

**EFFECTIVE DATE:** This action will become effective on March 15, 1996 unless, within 30 days of publication, adverse or critical comments are received. If the effective date is delayed, timely notice

will be published in the Federal Register.

**ADDRESSES:** Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105 and Philadelphia Department of Public Health, Air Management Services, 321 University Avenue, Philadelphia, Pennsylvania 19104.

**FOR FURTHER INFORMATION CONTACT:** Kelly L. Bunker, (215) 597-4554.

**SUPPLEMENTARY INFORMATION:** On September 8, 1995 the Commonwealth of Pennsylvania submitted a request for parallel processing of a redesignation request and maintenance plan for the Philadelphia portion of the Philadelphia-Camden County CO nonattainment area and supplemented the request on October 30, 1995, in order to formalize the submittal as an official revision to its State Implementation Plan (SIP). The SIP revision consists of a maintenance plan and a request to redesignate part of Philadelphia County from nonattainment to attainment for carbon monoxide and the 1990 base year CO emissions inventory for Philadelphia County.

**I. Background**

Part of Philadelphia County in Pennsylvania, specifically the high traffic areas within the Central Business

District and certain other high traffic density areas of the City of Philadelphia, was a pre-1990 CO nonattainment area and continued to be designated as nonattainment for CO by operation of law as per section 107 (d)(1)(C)(i) of the Clean Air Act Amendments of 1990. The National Ambient Air Quality Standard (NAAQS) for CO is 9.5 parts per million (ppm). Philadelphia County is part of the Philadelphia-Camden County CO nonattainment area. CO nonattainment areas can be classified as moderate or serious, based on their design values. Since the Philadelphia CO nonattainment area had a design value of 11.6 ppm (based on 1988 and 1989 data), the area was classified as moderate. The CAA established an attainment date of December 31, 1995, for all moderate CO areas. Philadelphia County has ambient air quality monitoring data showing attainment of the CO NAAQS from 1990 through 1994. No exceedances or violations of the CO NAAQS have been monitored in Philadelphia County to date during calendar year 1995. Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on September 8, 1995 and October 30, 1995 the Commonwealth of Pennsylvania submitted a CO redesignation request and a maintenance plan for Philadelphia County. Pennsylvania submitted evidence that a public hearing was held on October 16, 1995 in Philadelphia.

**II. Evaluation Criteria**

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

1. The area must have attained the applicable NAAQS;
2. The area must have a fully approved SIP under section 110(k) of CAA;