Mr. Jerry Olmes, Bridge Administrator, Eleventh Coast Guard District, Building 50–6 Coast Guard Island, Alameda, CA 94501–5100, telephone (510) 437–3515.

SUPPLEMENTARY INFORMATION: The Coast Guard anticipates that the economic consequences of this deviation will be minimal. The bridge opens upon demand, however, most vessels needing bridge openings give the bridge operator a preliminary call about 30 minutes before arriving at the bridge. The additional time required for advance notice should not pose an economic burden for waterway users. This deviation from the normal operating regulations in 33 CFR 117.5 is authorized in accordance with the provisions of 33 CFR 117.35.

Dated: September 18, 1998.

E. E. Page,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 98–26577 Filed 10–2–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 81

[CT50–7208; A–1–FRL–6167–1]

Approval and Promulgation of Air Quality Implementation Plans and Designations of Areas for Air Quality Planning Purposes; State of Connecticut; Approval of Maintenance Plan, Carbon Monoxide Redesignation Plan and Emissions Inventory for the New Haven-Meriden-Waterbury area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a request by the Connecticut Department of Environmental Protection (CTDEP) on January 17, 1997 to redesignate the New Haven-Meriden-Waterbury area from nonattainment to attainment for carbon monoxide (CO). EPA is approving this request which establishes the area as attainment for carbon monoxide and requires the state to implement their 10 year maintenance plan that will insure that the area remains in attainment. Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data is available to warrant such revisions. EPA is approving the Connecticut request because it meets the redesignation requirements set forth in the CAA, and this action is being taken in accordance with Clean Air Act requirements. In this action, EPA is also approving the 1990 base year emission inventory for CO emissions, which includes emissions data for sources of CO in the New Haven nonattainment area.

DATES: This action is effective December 4, 1998, unless EPA receives adverse or critical comments by November 4, 1998. Should the Agency receive such comments, it will publish a timely withdrawal in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203–2211. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Butensky, Environmental Planner, Air Quality Planning Unit of the Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203–2211, (617) 565–3583 or at butensky.jeff@epamail.epa.gov

SUPPLEMENTARY INFORMATION: On January 17, 1997, the State of Connecticut submitted a formal redesignation request consisting of air quality data showing that the area is attaining the standard and a maintenance plan with all applicable requirements. In addition, on January 13, 1994, the State of Connecticut submitted a carbon monoxide inventory for the New Haven-Meriden-Waterbury area which is also being approved in today's action.

I. Summary of SIP Revision

A. Background

On March 31, 1978, (See 43 FR 8962), EPA published rulemaking which set forth attainment status for all States in relation to the National Ambient Air Quality Standards (NAAQS). The New Haven-Meriden-Waterbury area and surrounding towns (the ''New Haven area'') was designated as nonattainment for carbon monoxide (CO) through this notice. This includes the towns of New Haven, Thomaston, Watertown, Bethlehem, Woodbury, Wolcott, Waterbury, Middlebury, Southbury, Meriden, Cheshire, Prospect, Naugatuck, Oxford, Seymour, Shelton, Beacon Falls, Bethany, Hamden, Wallingford, Guilford, Branford, North Branford, Madison, North Haven, East Haven, Woodbridge, West Haven, Ansonia, Derby, Orange, and Milford.

Prior to the 1990 Clean Air Act amendments, a large area encompassing New Haven, Hartford, and Springfield, MA, was a single air quality control region. Pursuant to the CAA of 1990, the area was divided into specific nonattainment areas, one of which is the New Haven-Meriden-Waterbury CO nonattainment area. The Hartford CO nonattainment area was redesignated to attainment and a maintenance area on October 31, 1995. An ''unclassified area'' is an area with data showing no violations but had been designated as nonattainment prior to the 1990 Clean Air Act amendments. Therefore, the area continued as nonattainment by operation of law until the State completes all redesignation requirements and EPA takes action.

The New Haven area was designated ''unclassifiable'' as determined by EPA even though the area has ambient monitoring data showing attainment of the CO NAAQS since 1978. Therefore, this area is subject to the requirements of section 172 of the Clean Air Act which sets forth requirements for applicable nonattainment areas (see the technical support document for more information). The 1990 CAA required such areas to achieve the standard by November 15, 1995, and the New Haven area has fulfilled this requirement. Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on January 17, 1997 the State of Connecticut submitted a CO redesignation request and a maintenance plan for the New Haven area. Connecticut submitted evidence that a public hearing was held on January 8, 1997.

B. 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.

C. Review of State Submittal

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

1. Attainment of the CO NAAQS

Connecticut has accurate CO air monitoring data which shows that the New Haven-Meriden-Waterbury area has met the CO NAAQS. The request by Connecticut to redesignate is based on an analysis of quality-assured monitoring data which is relevant to the maintenance plan and to the redesignation request. To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard over at least two consecutive years. The ambient air CO monitoring data for calendar year 1994 through calendar year 1995 relied upon by Connecticut in its redesignation request shows no violations of the CO NAAQS, and the area has had no exceedances since 1978. Therefore, the area has complete quality assured data showing no more than one exceedance of the standard per year over at least two consecutive years and the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.9 and appendix C). Connecticut also committed to continue to monitor CO in the City of New Haven. In addition, the state has used the MOBILE5A emission model and the CAL3QHC (version 2.0) dispersion model, and the modeling results show no violations of the CO NAAQS in the year 2007. No violations are expected throughout the maintenance period (through 2008).

2. Fully Approved SIP

Connecticut's CO SIP is fully approved by EPA as meeting all the requirements of Section 110 of the Act, including the requirement in Section 110(a)(2)(I) to meet all the applicable requirements of Part D (relating to nonattainment), which were due prior to the date of Connecticut's redesignation request. Connecticut's 1982 CO SIP was fully approved by EPA in 1984 as meeting the CO SIP requirements in effect under the CAA at that time. The 1990 CAA required that CO nonattainment areas achieve specific new requirements depending on the severity of the nonattainment classification. The requirements for the New Haven-Meriden-Waterbury area include the preparation of a 1990 emission inventory with periodic updates and development of conformity procedures. Each of these requirements, added by the 1990 Amendments to the CAA, are discussed in greater detail below.

New Source Review: Consistent with the October 14, 1994 EPA guidance from Mary D. Nichols entitled "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," EPA is not requiring as a prerequisite to redesignation to attainment EPA's full approval of a part D NSR program by Connecticut. Under this guidance, nonattainment areas may be redesignated to attainment notwithstanding the lack of a fully-approved part D NSR program, so long as the program is not relied upon for maintenance. Connecticut has not relied on a NSR program for CO sources to maintain attainment. Regardless, the current NSR rules for Connecticut that were approved by EPA on February 23, 1993, are adequate to meet the CO NSR requirements applicable in this nonattainment area. Although EPA is not treating a part D NSR program as a prerequisite for redesignation, it should be noted that EPA is in the process of taking final action on the State's revised NSR regulation. Since the New Haven-Meriden-Waterbury area is being redesignated to attainment by this action, Connecticut's Prevention of Significant Deterioration (PSD) requirements will be applicable to new or modified sources in the New Haven-Meriden-Waterbury area.

Emission Inventory: Under the Clean Air Act as amended, States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The inventory is designed to address actual CO emissions for the area during the peak CO season. Connecticut submitted its base year inventory to EPA in November, 1993, and this included estimates for CO emissions for the New Haven-Meriden-Waterbury CO nonattainment area. EPA is approving the New Haven-Meriden-Waterbury portion of the 1990 CO 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, and this was accomplished. Connecticut included the requisite inventory in the CO SIP, and the base year for the inventory was 1990 and used a three month CO season of November 1990 through January 1991. Stationary point sources, stationary area sources, on-road mobile sources, and non road mobile sources of CO were included in the inventory. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992). In this action, EPA is approving the emission inventory for the New Haven-Meriden-Waterbury nonattainment area.

The following list presents a summary of the CO peak season daily emissions estimates in tons per winter day by source category. The EPA is approving the New Haven-Meriden-Waterbury 1990 base year CO emissions inventory based on the technical review of the inventory.

Area	Non road	Mobile	Point	Total
157.38	54.86	479.91	3.85	696.00

Conformity: Under section 176(c) of the CAA, states are required to submit revisions to their SIPs that include criteria and procedures to ensure that Federal actions conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as all other federal actions ("general conformity"). Congress provided for the State revisions to be submitted one year after the date of promulgation of final EPA conformity regulations. EPA promulgated revised final transportation conformity regulations on August 15, 1997 (62 FR #43780) and final general conformity regulations on November 30, 1993 (58 FR #63214).

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

yet submitted either of these conformity SIP revisions.

Although Connecticut has not yet adopted and submitted conformity SIP revisions, EPA may approve this redesignation request. EPA interprets the requirement of a fully approved SIP in section 107(d)(3)(E)(v) to mean that, for a redesignation request to be approved, the State must have met all requirements that become applicable to the subject area prior to or at time of the submission of the redesignation request. Although this redesignation request was submitted to EPA after the due date for the SIP revisions for the general conformity rule and the State has not promulgated their transportation conformity and general conformity 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 two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act applies to maintenance areas and thereby continues to apply after redesignation to attainment. Therefore, Connecticut remains obligated to adopt the transportation and general conformity rules even after redesignation. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and part D, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas.

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

On April 1, 1996, EPA modified its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) concerning the applicable requirements for purposes of reviewing a CO redesignation request (61 FR 2918, January 30, 1996). Under this new policy, for the reasons discussed, EPA believes that the CO redesignation request may be approved notwithstanding the lack of submitted and approved state transportation and general conformity rules.

For transportation conformity purposes, the 2008 on-road emission totals outlined in the chart later in this rule is designated as the emissions budget for the New Haven-Meriden-Waterbury CO nonattainment/maintenance area.

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

EPA approved Connecticut's CO SIP, submitted in 1982, under the CAA, as amended in 1977. 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. The air quality improvements are due to the permanent and enforceable measures contained in the 1982 CO SIP. EPA finds that the combination of certain existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed the area to attain the NAAQS.

4. Fully Approved Maintenance Plan Under Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. The contingency plan includes the implementation of reformulated gasoline, which is already occurring, and the implementation of a the enhanced inspection and maintenance program, which began implementation on January 1, 1998. Although these programs are being implemented as measures to achieve the NAAQS for ground level ozone, they are not required in unclassified carbon monoxide nonattainment areas under the Clean Air Act and can therefore be used as contingency measures. In this notice, EPA is approving the State of Connecticut's maintenance plan for the New Haven-Meriden-Waterbury area because EPA finds that Connecticut's submittal meets the requirements of section 175A. In addition, although vehicle miles traveled (VMT) may increase over the maintenance period, the decrease in emissions per vehicle will more than offset growth in VMT.

A. Attainment Emission Inventory

As previously noted, the State of Connecticut submitted a comprehensive inventory of CO emissions from the New Haven-Meriden-Waterbury area. The inventory includes emissions from area, stationary, and mobile sources using 1990 as the base year for calculations.

The 1990 inventory is considered representative of attainment conditions because the NAAQS was not violated during 1990 and was prepared in accordance with EPA guidance. Connecticut established CO emissions for the attainment year, 1990, as well as forecast years out to the year 2007. These estimates were derived from the State's 1990 emissions inventory. The State submittal contains the following data:

NEW HAVEN NONATTAINMENT AREA CO EMISSIONS INVENTORY SUMMARY

[Tons per day]

Year	Area	Non road	Mobile	Point	Total
1990	157.38	54.86	479.91	3.85	696.00

NEW HAVEN NONATTAINMENT AREA CO EMISSIONS INVENTORY SUMMARY—Continued

[Tons per day]

Year	Area	Non road	Mobile	Point	Total
2007	169.09	58.93	395.97	4.14	628.10
2008	169.09	58.93	395.97	4.14	628.10

To fulfill the requirements of a redesignation request, a maintenance plan must extend out 10 years or more from the date of this document. Therefore, this information had to be provided through the year 2008. As a result, Connecticut supplied additional information that indicated that the budget should be identical for 2007 and 2008. Emissions in 2008 will likely be different than 2007, but a precise modeling analysis is not required because the difference will be inconsequential and the actual CO emission levels in these years is expected to be significantly below the levels estimated in the analysis contained in the redesignation request. This has fulfilled the 10 year requirement (further explained in the technical support document).

B. Demonstration of Maintenance-Projected Inventories

Total CO emissions were projected from 1990 base year out to 2007. In addition, Connecticut was required to extend this analysis to 2008, and this was accomplished. These projected inventories were prepared in accordance with EPA guidance. These estimates are extremely conservative because they do not include reformulated gasoline, enhanced inspection and maintenance, or the low emission vehicle program. Therefore, it is anticipated that the area will maintain the CO standard.

C. Verification of Continued Attainment

Continued attainment of the CO NAAQS in the New Haven-Meriden-Waterbury area depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period, and the State will submit periodic inventories of CO emissions. In addition, 8 years from today the state is required to submit another 10 year maintenance plan covering the period from 2008 through 2018.

D. Contingency Plan

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

Connecticut has developed a two-stage contingency plan. The first stage is the implementation of reformulated gasoline as indicated earlier in this notice. The second is the implementation of the enhanced inspection and maintenance program, also as indicated earlier. In order to be adequate, the maintenance plan should include at least one contingency measure that will go into effect with a triggering event. Connecticut is relying largely on these two contingency measures that will go into effect regardless of any triggering event, thereby fulfilling this requirement.

E. Subsequent Maintenance Plan Revisions

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

5. Meeting Applicable Requirements of Section 110 and Part D

In this document, EPA has set forth the basis for its conclusion that Connecticut has a fully approved SIP which meets the applicable requirements of Section 110 and Part D of the CAA.

EPA is publishing this redesignation and approving the emissions budget for the New Haven-Meriden-Waterbury area without prior proposal because the Agency views this as noncontroversial and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal should relevant adverse comments be filed. This action will be effective December 4, 1998 without further notice unless the Agency receives relevant adverse comments by November 4, 1998.

If the EPA receives such comments, then EPA will publish a timely withdrawal of the final rule and informing the public that it will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposal. The EPA will not institute a second comment period on this rule. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this redesignation will be effective on December 4, 1998 and no further action will be taken on the proposal.

II. Final Action

EPA is approving the New Haven-Meriden-Waterbury CO resignation and maintenance plan because it meets the requirements set forth in section 175A of the CAA. In addition, the Agency is approving the request to redesignate the New Haven-Meriden-Waterbury CO area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation.

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

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon

a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments and "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

D. Regulatory Flexibility Act

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. To the extent that the area must adopt new regulations, based on its attainment status, EPA will review the effect of those actions on small entities at the time the State submits those regulations. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

E. Unfunded Mandates

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

F. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

G. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is does not involved decisions intended to mitigate environmental health or safety risks.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 4, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such an action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed redesignation rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

Air pollution Control, National Parks, Wilderness Areas.

Dated: September 11, 1998.

John P. DeVillars,

Regional Administrator, Region I.

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. 7401–7671q.

Subpart H—Connecticut

2. Section 52.376 is amended by revising paragraphs (a) and (b) and by adding paragraph (d) to read as follows:

§ 52.376 Control strategy: Carbon monoxide.

(a) Approval—On January 12, 1993, the Connecticut Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan for the 1990 base year emission inventory. The inventory was submitted by the State of Connecticut to satisfy Federal

requirements under sections 172(c)(3) and 187(a)(1) of the Clean Air Act as amended in 1990, as a revision to the carbon monoxide State Implementation Plan for the Hartford/New Britain/ Middletown carbon monoxide nonattainment area and the New Haven/ Meriden/Waterbury carbon monoxide nonattainment area.

(b) Approval—On September 30, 1994, the Connecticut Department of Environmental Protection submitted a request to redesignate the Hartford/New Britain/Middletown 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 2005 for carbon monoxide, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the carbon monoxide NAAQS (which must be confirmed by the State), Connecticut will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measure includes 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.

* * * * *

(d) Approval—On January 17, 1997, the Connecticut Department of Environmental Protection submitted a request to redesignate the New Haven/ Meriden/Waterbury carbon monoxide nonattainment area to attainment for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a base year emission inventory for carbon monoxide, a demonstration of maintenance of the carbon monoxide NAAQS with projected emission inventories to the year 2008 for carbon monoxide, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the carbon monoxide NAAQS (which must be confirmed by the State), Connecticut will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measure includes reformulated gasoline and the enhanced motor vehicle inspection and maintenance program. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

PART 81—[AMENDED]

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

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

Subpart C—Connecticut

2. Section 81.307 is amended by revising the table for ''Connecticut-Carbon Monoxide'' to read as follows:

§ 81.307 Connecticut.

* * * * *

CONNECTICUT—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date	Type	Date	Type
Hartford-New Britain-Middletown Area:				
Hartford County (part)	1/2/96	Attainment.		
Bristol City, Burlington Town, Avon Town, Bloomfield Town, Canton Town, E. Granby Town, E. Hartford Town, E. Windsor Town, Enfield Town, Farmington Town, Glastonbury Town, Granby Town, Hartford city, Manchester Town, Marlborough Town, Newington Town, Rocky Hill Town, Simsbury Town, S. Windsor Town, Suffield Town, W. Hartford Town, Wethersfield Town, Windsor Town, Windsor Locks Town, Berlin Town, New Britain city, Plainville Town, and Southington Town				
Litchfield County (part)	1/2/96	Attainment.		
Plymouth Town	1/2/96	Attainment.		
Middlesex County (part):				
Cromwell Town, Durham Town, E. Hampton Town, Haddam Town, Middlefield Town, Middleton City, Portland Town, E. Haddam Town				
Tolland County (part):				
Andover Town, Boton Town, Ellington Town, Hebron Town, Somers Town, Tolland Town, and Vernon Town	1/2/96	Attainment.		
New Haven—Meriden—Waterbury Area	10/5/98	Attainment.		
Fairfield County (part) Shelton City	....	Attainment.		
Litchfield County (part):				
Bethlehem Town, Thomaston Town, Watertown, Woodbury Town.	....	Nonattainment.		
New Haven County	....	Attainment.		
New York-N. New Jersey-Long Island Area:				
Fairfield County (part):				
All cities and townships except Shelton City	....	Nonattainment	....	Moderate > 12.7 ppm.
Litchfield County(part)	....	....	....	Moderate > 12.7 ppm.

CONNECTICUT—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
Bridgewater Town, New Milford Town				
AQCR 041 Eastern Connecticut Intrastate.	....	Unclassifiable/Attainment.		
Middlesex County (part):				
All portions except cities and towns in Hartford Area				
New London County:				
Tolland County (part):				
All portions except cities and towns in Hartford Area				
Windham County:				
AQCR 044 Northwestern Connecticut Intrastate.	....	Unclassifiable/Attainment.		
Hartford County (part) Hartland Township				
Litchfield County (part):				
All portions except cities and towns in Hartford, New Haven, and New York Areas.				

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–6168–9]

New Source Performance Standards (NSPS)—Applicability of Standards of Performance for Coal Preparation Plants to Coal Unloading Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interpretation of standards of performance.

SUMMARY: EPA issued an interpretation of the New Source Performance Standards (NSPS) for Coal Preparation Plants, 40 CFR part 60, subpart Y, on October 3, 1997, in response to an inquiry from the Honorable Barbara Cubin, United States House of Representatives. After a careful review of NSPS Subpart Y, the relevant regulations under Title V of the Clean Air Act, and associated documents, EPA issued an interpretation concluding that coal unloading that involves conveying coal to coal plant machinery is subject to the NSPS, and that fugitive emissions, if any, from coal dumping must be included in a determination of whether a coal preparation plant is a major source subject to Title V permitting requirements. The full text of the interpretation appears in the SUPPLEMENTARY INFORMATION section of today's document.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Oh, United States Environmental Protection Agency (2223A), 401 M Street, SW., Washington, D.C. 20460, telephone (202) 564–7004.

SUPPLEMENTARY INFORMATION: This interpretation does not supersede, alter, or in any way replace the existing NSPS Subpart Y—Standards of Performance for Coal Preparation Plants. This notice is intended solely as a guidance and does not represent an action subject to judicial review under section 307(b) of the Clean Air Act or section 704 of the Administrative Procedures Act.

Analysis Regarding Regulatory Status of Fugitive Emissions From Coal Unloading at Coal Preparation Plants

This analysis addresses the treatment of fugitive emissions from coal unloading at coal preparation plants. The first question is whether coal unloading is regulated under the New Source Performance Standard (NSPS) for coal preparation plants, 40 CFR part 60, subpart Y. The second question is whether fugitive emissions from coal unloading must be included in determining whether the plant is a major source subject to Title V permitting requirements. In this analysis, we use the term ''coal unloading'' to encompass ''coal truck dumping'' and ''coal truck unloading,'' as well as dumping or unloading from trains, barges, mine cars, and conveyors.

In a February 24, 1995, letter to the Wyoming Department of Environmental Quality, signed by the Branch Chief for Air Programs, EPA Region VIII concluded that coal unloading is not regulated by NSPS Subpart Y (i.e., is not an ''affected facility''). Region VIII approached the Title V issue by first determining whether coal unloading is part of the NSPS coal preparation plant source category. Having decided that coal unloading at the coal preparation plant site is part of the source category, Region VIII concluded that fugitive emissions from coal unloading must be included in determining whether the plant is a major source subject to Title V permitting requirements.

Our independent review of NSPS Subpart Y and associated documents leads us to conclude that coal unloading that involves conveying coal to plant machinery is regulated under Subpart Y. Thus, we disagree with the Region VIII letter to the extent it says that this type of coal unloading is not an affected facility. We agree with Region VIII's conclusion that fugitive emissions from coal unloading must be included in determining whether the plant is a major source subject to Title V permitting requirements. However, the relevant Title V regulations and related provisions indicate that the analysis should focus on the ''source'' rather than the ''source category.'' In other words, the central question is not whether coal unloading is within the NSPS source category. Rather, it is whether coal unloading at a coal preparation plant is part of the source that belongs to this source category.

Accordingly, this analysis primarily addresses two issues: whether coal unloading is an affected facility under NSPS Subpart Y, and whether coal unloading is part of the source belonging to the coal preparation plant NSPS source category. Underlying the second issue is the question of whether fugitive emissions associated with coal unloading should be included in major source determinations.

The question of whether fugitive emissions from coal unloading should be included in major source determinations has implications for permitting requirements under Title V of the Clean Air Act (''CAA'' or ''the Act''). Under the current Title V