

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R01-OAR-2004-CT-0003 ; A-1-FRL- ]

Approval and Promulgation of Air Quality Implementation  
Plans; Connecticut; Carbon Monoxide Maintenance Plan Updates;  
Limited Maintenance Plans.

**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 revision establishes limited maintenance plans for the Hartford-New Britain-Middletown, the New Haven-Meriden-Waterbury, and the Connecticut portion of the New York-Northern New Jersey-Long Island carbon monoxide attainment areas, and provides the ten-year update to these three carbon monoxide maintenance plans. EPA is taking this action under the Clean Air Act.

**EFFECTIVE DATES:** This rule will become effective on **[Insert date 30 days from date of publication]**.

**ADDRESSES:** EPA has established a docket for this action under Regional Material in EDocket (RME) Docket ID Number R01-OAR-2004-CT-0003. All documents in the docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>, once in the system, select "quick search," then key in the appropriate RME Docket identification

number. Although listed in the electronic docket, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in Regional Material in EDocket or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630.

**FOR FURTHER INFORMATION CONTACT:** Donald O. Cooke, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1668, fax number (617) 918-0668, email [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov) .

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On June 28, 2004, the Connecticut Department of Environmental Protection (CT DEP) submitted a revision to its State Implementation Plan (SIP) for “Limited Maintenance Plans for the Hartford, the New Haven, and the Connecticut Portion of the New York/New Jersey/Connecticut Carbon Monoxide Maintenance Areas.” The revision consists of a second follow-on ten-year carbon monoxide maintenance plan for the Hartford-New Britain-Middletown carbon monoxide attainment area (period 2006 to 2015) and a request for a limited carbon monoxide maintenance plan designation. The State of Connecticut also requested limited maintenance plan approval and early approval of the second follow-on ten-year maintenance plans for both the New Haven-Meriden-Waterbury carbon monoxide attainment area (period 2009 to 2018), and the Connecticut portion of the New York-Northern New Jersey-Long Island (period 2011 to 2020) carbon monoxide attainment area.

In the case of the Hartford, New Haven and Southwest Connecticut carbon monoxide limited maintenance plan areas, EPA believes that it is unreasonable to expect so much growth during the period of the maintenance plan as to result in a violation of the carbon monoxide National Ambient Air Quality Standard (NAAQS). In other words, EPA concludes that emissions are not constraining and need not be capped for the maintenance period. Therefore, Federal actions that require conformity determinations under the transportation conformity rule are considered to satisfy the regional emissions analysis and “budget test” requirements in 40 CFR 93.118 of the rule. Other specific requirements of Connecticut’s SIP revision and the rationale for EPA’s approval action are explained in EPA’s June 23, 2004 notice of proposed rulemaking (69 FR 34976) and will not be restated here.

Under EPA's parallel process procedures, EPA-New England Regional Office worked closely with the CT DEP, the state air agency, while the state developed its SIP revision. The state submitted a copy of its proposed SIP revisions to EPA on May 11, 2004 before conducting its June 17, 2004 public hearing. EPA reviewed this proposed state action, and prepared a notice of proposed rulemaking which was published in the Federal Register on June 23, 2004 (69 FR 34976). The state and EPA then provided for concurrent public comment periods on both the state action and Federal action. No oral or written comments were submitted to the state or EPA. The State of Connecticut's formal SIP submittal dated June 28, 2004 was unchanged from the May 11, 2004 draft revision. EPA is now proceeding with its final action to approve Connecticut's SIP revisions.

**II. Final Action:** EPA is approving the State Implementation Plan (SIP) revision submitted on June 28, 2004 by the State of Connecticut. This SIP revision establishes limited maintenance plans for the Hartford-New Britain-Middletown, the New Haven-Meriden-Waterbury, and the Connecticut portion of the New York-Northern New Jersey-Long Island carbon monoxide attainment areas, and approves the ten-year update to these three carbon monoxide maintenance plans. As a result of approving the limited maintenance plan revisions, the three carbon monoxide (CO) attainment areas with maintenance plans will satisfy their obligation to submit sequential second ten-year maintenance plans, and eliminate the need to prepare regional carbon monoxide emissions analysis for transportation conformity.

### **III. Statutory and Executive Order Reviews**

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 (Public Law 104-4).

This rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not 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 “Protection of Children from Environmental Health Risks and Safety Risks” (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. 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. section 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. section 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 [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. 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, Carbon monoxide, Intergovernmental relations.

8/6/04  
Dated:

Robert W. Varney Acting  
Robert W. Varney,  
Regional Administrator,  
EPA New England.

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.*

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

**§ 52.376 Control strategy: Carbon monoxide.**

\* \* \* \* \*

(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. The redesignation request and the 1995-2005 initial ten-year 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. The redesignation request and the 1998-2008 initial ten-year maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

\* \* \* \* \*

(f) Approval—On May 29, 1998, the Connecticut Department of Environmental Protection submitted a request to redesignate the Connecticut portion of the New York-N. New Jersey-Long Island carbon monoxide nonattainment area to attainment for carbon monoxide. The redesignation request and the 2000-2010 initial ten-year maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

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(h) Approval – On June 28, 2004, the Connecticut Department of Environmental Protection (CT DEP) submitted a request to establish limited maintenance plans for the Hartford-New Britain-Middletown Connecticut carbon monoxide attainment area, the New Haven-Meriden-Waterbury Connecticut carbon monoxide attainment area, and the Connecticut portion of the New York-

Northern New Jersey-Long Island carbon monoxide attainment area for the remainder of the individual area's initial ten-year maintenance plan. As part of the maintenance plan request, CT DEP also requested approval of a second follow-on ten-year carbon monoxide maintenance plan for the Hartford-New Britain-Middletown carbon monoxide attainment area (period 2006 to 2015), for the New Haven-Meriden-Waterbury carbon monoxide attainment area (period 2009 to 2018), and for the Connecticut portion of the New York-Northern New Jersey-Long Island carbon monoxide attainment area (period 2011 to 2020). The State of Connecticut has committed to: maintain a continuous carbon monoxide monitoring network in each carbon monoxide maintenance area; implement contingency measures in the event of an exceedance of the carbon monoxide National Ambient Air Quality Standard (NAAQS) in any of the three maintenance areas; coordinate with EPA in the event the carbon monoxide design value(s) in any maintenance area(s) exceed 7.65 ppm, to verify the validity of the data and, if warranted based on the data review, develop a full maintenance plan(s) for the affected maintenance area(s); and, ensure that project-level carbon monoxide evaluations of transportation projects in each area are carried out as part of environmental reviews or Connecticut's indirect source permitting program. The limited maintenance plans satisfy all applicable requirements of section 175A of the Clean Air Act. Approval of a Limited Maintenance Plan is conditioned on maintaining levels of ambient carbon monoxide levels below the required limited maintenance plan 8-hour carbon monoxide design value criterion of 7.65 parts per million. If the Limited Maintenance Plan criterion is no longer satisfied, Connecticut must develop a full maintenance plan to meet Clean Air Act requirements.