

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CT-057-7216e; A-1-FRL-7600-2]

Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 using MOBILE6.2 for the Connecticut Portion of the New York-Northern New Jersey-Long Island Nonattainment Area and for 2007 for the Greater Connecticut Nonattainment Area**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: The EPA is approving a revision to the Connecticut State Implementation Plan (SIP) for the attainment and maintenance of the one-hour National Ambient Air Quality Standard (NAAQS) for ground level ozone submitted by the State of Connecticut. The intended effect of this action is to approve Connecticut's 2005 and 2007 motor vehicle emissions budgets recalculated using MOBILE6.2 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and to approve Connecticut's 2007 motor vehicle emissions budgets for the Greater Connecticut nonattainment area also recalculated using MOBILE6.2. This action is being taken under the Clean Air Act.

DATES: This direct final rule will be effective February 17, 2004, unless EPA receives adverse comments by January 20, 2004. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114-2023. Comments may also be submitted electronically, or through hand delivery/courier, please follow the detailed instructions described in part (I)(B)(1)(i) through (iii) of the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Jeff Butensky, Environmental Planner, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, (617) 918-1665, butensky.jeff@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. How Can I Get Copies of This Document and Other Related Information?*

1. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* EPA has established an official public rulemaking file for this action under CT-057-7216e. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the 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.

2. *Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency.* Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630.

3. *Electronic Access.* You may access this **Federal Register** document electronically through the Regulation.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the

version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking CT-057-7216d" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to conroy.david@epa.gov please including the text "Public comment on proposed rulemaking CT-057-7216d" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

ii. *Regulation.gov*. Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at <http://www.regulations.gov>, then click on the button "TO SEARCH FOR REGULATIONS CLICK HERE," and select Environmental Protection Agency as Agency name to search on. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail*. Send your comments to: David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114-2023. Please include the text "Public comment on proposed rulemaking CT-057-7216d" in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier*. Deliver your comments to: David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal Holidays.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

II. Rulemaking Information

On June 17, 2003, the Connecticut Department of Environmental Protection (CTDEP) submitted an amendment to the Connecticut State Implementation Plan (SIP) containing 2005 and 2007 motor vehicle emissions budgets recalculated using the MOBILE6.2 model for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and 2007 motor vehicle emissions budgets for the Greater Connecticut nonattainment area. This SIP revision fulfills the commitment made by the CTDEP in its February 8, 2000 SIP submittal to revise the transportation conformity budgets using EPA's MOBILE6 emissions model.¹ In addition, this SIP revision demonstrates that the new levels of motor vehicle emissions calculated using MOBILE6.2 continue to support achievement of the rate of progress requirements and projected attainment of the one-hour ozone NAAQS for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and the Greater Connecticut nonattainment area. Connecticut held a public hearing on its proposed SIP revision on May 27, 2003. Today's action approves these budgets.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- A. Background
- B. What is MOBILE6.2?
- C. Are the revised budgets using MOBILE6.2 consistent with Connecticut's one-hour attainment demonstration?
- D. Are Connecticut's motor vehicle emissions budgets approvable?

¹ Document titled "Addenda to the Ozone Attainment Demonstrations for the Southwest Connecticut Severe Ozone Nonattainment Area and Greater Connecticut Serious Ozone Nonattainment Area," February 8, 2000.

A. Background

The entire State of Connecticut is designated as nonattainment for the one-hour ozone NAAQS. Southwest Connecticut (*i.e.*, all of Fairfield County except the town of Shelton, plus the Litchfield County towns of Bridgewater and New Milford) is part of the New York-Northern New Jersey-Long Island severe ozone nonattainment area, and the remainder of Connecticut is the Greater Connecticut serious ozone nonattainment area. The CTDEP submitted attainment demonstrations for both the Southwest Connecticut and Greater Connecticut ozone nonattainment areas on September 16, 1998, and EPA published proposed rulemakings on CTDEP's attainment demonstrations on December 16, 1999. 64 FR at 70332-70364 (December 16, 1999).

EPA's December 16, 1999 proposal to approve the attainment demonstration for the Greater Connecticut area was contingent upon several issues. The issues relevant to this action were the submittal of an adequate motor vehicle emissions budget that was consistent with attainment and a commitment to revise the motor vehicle emissions budget within one year after official release of EPA's MOBILE6 emissions model. The CTDEP submitted the required motor vehicle emissions budgets (calculated using EPA's MOBILE5b emissions model) for Greater Connecticut on February 8, 2000. The motor vehicle budgets submitted for Greater Connecticut on February 8, 2000 were calculated using then-current EPA guidance. This guidance is articulated in two memoranda which detail how states should incorporate the benefits of the federal motor vehicle Tier 2 standard into their SIPs, "Guidance on Motor Vehicle Emissions Budgets in one-hour Ozone Attainment Demonstrations," issued November 3, 1999, and "One-hour Ozone Attainment Demonstrations and Tier2/Sulfur Rulemaking," issued November 8, 1999. In addition, states that have attainment demonstrations that include interim MOBILE5b-based estimates of the federal motor vehicle Tier 2 standards are required to submit motor vehicle emissions budgets using the EPA's April 2000 MOBILE5 guidance, "MOBILE5 Information Sheet #8: Tier 2 Benefits Using MOBILE5."² EPA granted full approval to the Greater Connecticut

² The final rule on Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements ("Tier 2 standards") for passenger cars, light trucks, and larger passenger vehicles was published on February 10, 2000 (65 FR 6698).

attainment demonstration on January 3, 2001 (66 FR 633).

For the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area, EPA's December 16, 1999 rulemaking proposed to conditionally approve the ozone attainment SIP for the nonattainment area, and in the alternative, to disapprove the SIP if the specified conditions were not satisfied. The only condition of importance to today's action is the submittal of adequate MOBILE5b 2007 motor vehicle emissions budgets that are consistent with attainment, and a commitment to revise the 2007 motor vehicle emissions budgets within one year after official release of EPA's MOBILE6 emissions model. In the February 8, 2000 submittal, the CTDEP submitted revised 2007 motor vehicle emissions budgets (determined with MOBILE5b), which EPA found adequate on June 16, 2000 (65 FR 37778-37779). Connecticut also committed to revise its motor vehicle emissions budgets within one year after release of MOBILE6.³ In addition, the CTDEP incorporated the federal motor vehicle Tier 2 standards program into the SIP and provided the necessary SIP commitments as part of revisions submitted to EPA in February 2000 and October 2001,⁴ respectively. As a result of this submittal and the resolution of other issues on the attainment demonstration, EPA granted full approval of Connecticut's one-hour ozone attainment demonstrations on December 11, 2001 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area (66 FR 63921).

The SIP being approved today satisfies CTDEP's commitments to revise motor vehicle emissions budgets within one year after EPA's release of the MOBILE6 motor vehicle emissions model. EPA published the release of the MOBILE6 model in the **Federal Register** on January 29, 2002 (67 FR 4254), beginning the one-year time line for submitting revised budgets. Thus, the effective date of that **Federal Register** notice constituted the start of the one-

year time period for which Connecticut was required to revise its one-hour ozone attainment demonstration SIP using the MOBILE6 model. Therefore, Connecticut was required to submit this SIP revision to EPA by January 29, 2003. EPA subsequently released updated versions of the model, and the latest model update, MOBILE6.2, was used to prepare this SIP revision.

Although not required by EPA, CTDEP is electing to replace the existing 2005 MOBILE5b budgets for Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area with MOBILE6.2 budgets. There are no applicable budget requirements for 2005 for Greater Connecticut, but the State previously had 2005 budgets approved by EPA for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area (66 FR 63921). Connecticut is only required to submit new 2007 budgets using the MOBILE6.2 model for the attainment year of 2007. Therefore, EPA's adequacy determination will only be for the revised attainment year budgets for 2007 for both the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and the Greater Connecticut nonattainment area and not for the revised reasonable further progress (2005) budgets for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area. This is consistent with EPA's approval of the previous MOBILE5 budgets which limited the adequacy process to only the revised attainment year budgets, or 2007 for both nonattainment areas in Connecticut. EPA has notified the public of Connecticut's SIP revision containing 2007 motor vehicle emissions budgets recalculated using the MOBILE6.2 model for the Connecticut portion of the New York-Northern New Jersey-Long Island ozone nonattainment area and for the Greater Connecticut ozone nonattainment area on EPA's Office of Transportation and Air Quality Web site "SIP Submissions Currently Under EPA Adequacy Review" located at <http://www.epa.gov/otaq/transp/conform/cursips.htm>. The thirty-day public comment period associated with the adequacy review process started Friday, December 5, 2003.

B. What is MOBILE6.2?

MOBILE6.2 is an EPA emissions factor model for estimating pollution from on-road motor vehicles in states outside of California. MOBILE6.2 calculates emissions of volatile organic compounds (VOCs), nitrogen oxides

(NO_x) and carbon monoxide (CO) from passenger cars, motorcycles, buses, and light-duty and heavy-duty trucks. The model accounts for the emission impacts of factors such as changes in vehicle emission standards, changes in vehicle populations and activity, variations in temperature, humidity, fuel type, vehicle type and age distribution, and air quality programs such as inspection and maintenance, and many other variables. Although some minor updates were made in 1996 with the release of MOBILE5b, MOBILE6.2 is the first major revision to MOBILE since MOBILE5a was released in 1993.

In developing mobile source emission estimates, states rely on estimates of daily vehicle miles traveled (VMT) using travel demand forecasting models which use variables such as population, housing, land use, and other relevant planning data. Resulting VMT, speed data, vehicle age distribution, speed data, road types, vehicle type data, and other data are then entered into the MOBILE6.2 model to develop on-road vehicle emission factors. More information on Connecticut's travel demand modeling is contained in the state's June 17, 2003 SIP submittal.

Transportation conformity is required under section 176(c) of the Clean Air Act. The purpose of transportation conformity is to ensure that federally supported highway and transit project activities are consistent with ("conform to") the purpose of a SIP. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. EPA's transportation conformity rule establishes the criteria and procedures for determining whether transportation activities conform to the state air quality plan. 40 CFR part 51, subpart W and part 93. The purpose of the MOBILE6.2 transportation conformity budgets being proposed for approval today is to cap the emissions resulting from Connecticut's statewide transportation improvement program (STIP) in the effort to reduce emissions and achieve the NAAQS for ground level ozone. The modeling conducted as part of the STIP must show that emissions are below these emissions budgets. This process is known as a "conformity determination."

C. Are the Revised Budgets Using MOBILE6.2 Consistent With Connecticut's One-Hour Attainment Demonstration?

In using MOBILE6.2 to calculate the revised budgets, states must consider whether these calculations continue to

³ The Connecticut commitment for submitting MOBILE6 budgets within one year after is codified at 40 CFR 52.377(b) for the Greater Connecticut area and 40 CFR 52.377(c) for the Southwest Connecticut area.

⁴ MOBILE5b inputs and estimates are from the previously approved SIP submittals "Addenda to the Ozone Attainment Demonstrations for the Southwest Connecticut Severe Ozone Nonattainment Area and Greater Connecticut Serious Ozone Nonattainment Area" (submitted to EPA on February 8, 2000) and "Updates to the Ozone Attainment Demonstration for the Southwest Connecticut Severe Ozone Nonattainment Area (submitted to EPA in October 2001).

support attainment of the NAAQS for ozone. EPA has articulated its policy regarding the use of MOBILE6.2 in SIP development in its "Policy Guidance on the Use of MOBILE6.2 for SIP Development and Transportation Conformity"⁵ and "Clarification of Policy Guidance for MOBILE6.2 in Mid-course Review Areas."⁶ Consistent with this policy guidance, Connecticut submitted a relative reduction comparison to show that its one-hour ozone attainment demonstration SIP continues to demonstrate attainment when applying the new MOBILE6.2 budgets.

In developing the EPA approved one-hour ozone attainment demonstrations, Connecticut relied on a "weight-of-evidence" approach that examined photochemical grid modeling results, emission projections, and air quality data. As part of Connecticut's one-hour attainment demonstration, the level of additional emission reductions needed for attainment was determined by applying a relative emission reduction technique.⁷ This relied on measured air quality data and emission estimates

from 1999, along with previous photochemical grid modeling with 2007 emission estimates, to determine whether additional emission reductions were necessary to provide for a projection of attainment for Connecticut in 2007. EPA concluded that attainment could be demonstrated if emission reductions expected from the federal motor vehicle Tier 2 program were incorporated into the SIP, and Connecticut subsequently incorporated this program into the SIP as part of revisions submitted to EPA in February 2000 and October 2001, respectively.⁸

CTDEP used a similar approach to determine if the 2007 MOBILE6.2 emission projections remain consistent with the approved attainment plans. CTDEP analyzed 1999 through 2007 to compare the relative emission reductions projected by MOBILE6.2 to those projected by MOBILE5b to determine if the relative reductions estimated over the 1999–2007 period with MOBILE6.2 equal or exceed those estimates using MOBILE5b.

MOBILE6.2 generally calculates higher emission factors than MOBILE5b

between the base year and the attainment year, or 1999 and 2007 for the budgets that are being approved today. As can be seen in table 1, for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area, MOBILE6.2 reductions are greater than MOBILE5b for emissions of total precursors (39.7 tons per summer day (tpd) versus 26.6 tpd), VOC (18.3 tpd versus 7.9 tpd), and NO_x (21.4 tpd versus 18.7 tpd). In addition, the rate of emission reductions between the base year of 1999 and attainment year of 2007 is also greater with MOBILE6.2 than MOBILE5b for total precursor emissions (46.3% versus 44.3%) and VOC emissions (52.7% versus 44.9%); but slightly lower for NO_x emissions (41.9% versus 44.1%). Therefore, MOBILE6.2 provides an "excess" rate of VOC reductions that is 7.9% above what MOBILE5b provided in the approved attainment SIP. In addition, MOBILE6.2 provides a 2.2% smaller rate of NO_x reductions compared to the MOBILE5b emissions included in the approved attainment SIP.

TABLE 1.—COMPARISON OF MOBILE5B AND MOBILE6.2 EMISSION ESTIMATES: 1999–2007

	Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area			Greater Connecticut		
	VOC + NO _x	VOC	NO _x	VOC + NO _x	VOC	NO _x
MOBILE5b: 1999 (tpd)	60.0	17.6	42.4	191.7	52.3	139.4
MOBILE5b: 2007 (tpd)	33.4	9.7	23.7	109.6	30.0	79.6
M5b Reduction (tpd)	26.6	7.9	18.7	82.1	22.3	59.8
M5b % Reduction	44.3%	44.9%	44.1%	42.8%	42.6%	42.9%
MOBILE6.2: 1999 (tpd)	85.8	34.7	51.1	272.2	107.3	164.9
MOBILE6.2: 2007 (tpd)	46.1	16.4	29.7	150.3	51.9	98.4
M6.2 Reduction (tpd)	39.7	18.3	21.4	121.9	55.4	66.5
M6.2 % Reduction	46.3%	52.7%	41.9%	44.8%	51.6%	40.3%
Difference in % Reductions (M6.2 – M5b)	1.9%	7.9%	–2.2%	2.0%	9.0%	–2.6%
"Excess" Reductions with MOBILE6.2 (after VOC for NO _x substitution at 0.83 to 0.61 ratio established by EPA method)	NA	4.9%	0.0%	NA	5.5%	0.0%

To demonstrate the net beneficial effect on ozone of the combined 7.9% "excess" VOC reductions and the 2.2% NO_x "deficit," CTDEP applied the emission reduction factors previously approved by EPA to determine the amount of additional reductions needed in Connecticut to ensure attainment of the ozone standard. See Addenda to the

Ozone Attainment Demonstrations for the Southwest Connecticut Severe Ozone Nonattainment Area and Greater Connecticut Serious Ozone Nonattainment Area, section 3.B. at 4–7 (January 14, 2000). This method determined that emission reductions of 0.83% VOC and 0.61% NO_x resulted in an ozone air quality improvement of one

ppb in the New York City modeling domain. Scaling these "normalized" values, the 2.2% MOBILE6.2 NO_x deficit described above can be offset by 3.0% (*i.e.*, (0.83/0.61) × 2.2% = 3.0% with rounding) of the 7.9% MOBILE6.2 VOC "excess."⁹ This substitution results in a final MOBILE6.2 VOC "excess" reduction of 4.9% (with a net

⁵ Memorandum, "Policy Guidance on the Use of MOBILE6.2 for SIP Development and Transportation Conformity," issued January 18, 2002.

⁶ Memorandum, "Clarification of Policy Guidance for MOBILE6.2 SIPs in Mid-course Review Areas," issued February 12, 2003.

⁷ 66 FR 63921–63938 (December 11, 2001) for the New York-Northern New Jersey-Long Island nonattainment area; 66 FR 634–663 (January 3, 2001) for the Greater Connecticut area.

⁸ MOBILE5b inputs and estimates are from the previously approved SIP submittals "Addenda to the Ozone Attainment Demonstrations for the Southwest Connecticut Severe Ozone Nonattainment Area and Greater Connecticut Serious Ozone Nonattainment Area" (submitted to EPA on February 8, 2000) and "Updates to the Ozone Attainment Demonstration for the Southwest Connecticut Severe Ozone Nonattainment Area (submitted to EPA in October 2001). MOBILE6.2

estimates were determined as described in the current SIP revision.

⁹ Note that Connecticut's submittal indicates that the required "offset" for the level of NO_x reduction from the MOBILE6 model is 3.1%, not 3.0%. EPA has re-run these calculations, and we believe that the correct number is 3.0%. In either case, it is clear that the level of VOC reduction projected by the MOBILE6 model more than compensates for the "deficit" in NO_x reductions.

zero balance of NO_x), relative to the MOBILE5b emissions included in the approved attainment SIP. Similar calculations are summarized in Table 1 for the Greater Connecticut nonattainment area.

The methodology used in these calculations differs from the methodology provided in EPA guidance,¹⁰ but Connecticut has provided evidence that these budgets continue to support attainment of the ozone NAAQS by 2007 in both nonattainment areas. First, to assess the relative level of reduction under the MOBILE5 model compared with the MOBILE6 model, Connecticut compared mobile source emission reductions from 1999 to 2007, the attainment year for these areas. EPA's guidance, however, recommends comparing reductions from the base year of the attainment demonstration with the attainment year. For most purposes, the base year for the attainment demonstrations in Connecticut was 1990. Nevertheless, Connecticut believes that it makes more sense to start the comparison with 1999 levels, because that was the year Connecticut assembled its attainment demonstration for EPA using a weight of evidence assessment of various emissions and air quality trends. Much of the data used in that weight of evidence assessment came from the late 1990's and made projections of attainment in 2007 by assessing how past trends in that data would likely proceed from 1999 forward. See *e.g.* the discussion of the Regional Design Value Rollback Analysis for the Connecticut Nonattainment Areas (64 FR at 70341–70342 (Greater Connecticut) and at 70359 (Southwest Connecticut) (December 16, 1999)). Connecticut and EPA effectively used 1999 as a base year for several purposes when constructing the weight of evidence analysis supporting our approval of the state's attainment demonstration. Therefore, Connecticut used 1999 as the starting point for assessing whether the relative level of reductions in mobile emissions projected using MOBILE6 still supports its attainment demonstration, since a critical step in that demonstration relied on projections from 1999 to 2007.

¹⁰ Two Memoranda: "Policy Guidance on the Use of MOBILE6.2 for SIP development and Transportation Conformity," issued January 18, 2002, and "Clarification of Policy Guidance for MOBILE6.2 SIPs in Mid-course Review Areas," issued February 12, 2003.

Second, Connecticut used the factors described above to compare and offset the "deficit" in NO_x reductions with "excess" VOC reductions. EPA's guidance does not directly address the situation where the overall level of ozone precursor reductions appears to support the weight of evidence analysis underlying the attainment demonstration but there is a slight shortfall in the level of reduction for one pollutant. Connecticut has looked to an analogous exercise the State and EPA undertook to calculate how to balance between NO_x and VOC reductions when calculating emission reduction shortfalls in ozone nonattainment areas. EPA believes the State's use of these factors is a reasonable extension of that methodology, since the goal of both exercises is to compare the relative benefit in reducing ozone that results from reductions in either VOC or NO_x.

Application of this methodology provides evidence that MOBILE6.2 projects a net reduction in total ozone precursor emissions between the 1999 base year and the 2007 attainment year that are at least equivalent to the level of reduction Connecticut relied on for its attainment demonstration using MOBILE5. These excess emission reductions determined with MOBILE6.2 reaffirm that the transportation budgets developed with MOBILE6.2 are consistent with Connecticut's previously approved attainment demonstrations.

In addition to the evaluation of on-road mobile source emissions, CTDEP also reevaluated the effects on the attainment plan of recent changes to 2007 growth projections for other emission source categories (*i.e.*, point, area, and non-road mobile sources). The Connecticut Department of Labor's updated total employment projections for the manufacturing sector are actually lower than previous projections by almost five percent. In addition, population projections were also updated. When updated employment growth and population forecasts are incorporated into emission calculations,¹¹ overall ozone precursor

¹¹ Calculations with updated CTDOL employment projections, U.S. Census Bureau were carried out using the procedures documented in Connecticut's Post-1999 Rate-of-Progress Plan. See section 3.2 and appendix F of "Ozone Reduction Strategy for the Southwest Connecticut Portion of the New York-New Jersey-Connecticut Severe Nonattainment Area: Post-1999 Rate-of-Progress Plan"; CTDEP;

emission projections for 2007 are slightly lower than those included in the previously approved attainment plan. These lower emission projections further support the attainment plan's conclusion that emission reductions included in the SIP are on target to achieve one-hour ozone attainment by 2007 in both the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and the Greater Connecticut area.

Connecticut must submit a mid-course review of its attainment demonstration by December 31, 2004 to ensure that the state remains on track to attain by 2007. During that mid-course review, EPA can reconfirm that these mobile budgets continue to support Connecticut's attainment demonstration.

Lastly, to further support the approval of Connecticut's mobile source budgets, EPA supplemented Connecticut's analysis with an analysis of its own based on information provided by the CTDEP. For the entire state, we compared the relative reduction, by percentage, between the 1990 and 2007 inventories generated using the two different versions of the models to ensure that the approved 1-hour ozone attainment demonstrations for Connecticut will continue to demonstrate attainment by 2007. The methodology for this relative reduction comparison consists of comparing the revised MOBILE6 baseline and attainment case inventories, by pollutant, with the previously approved MOBILE5 inventory totals for the State of Connecticut to determine if attainment can still be predicted by the attainment date.

Table 2 below contrasts Connecticut's revised MOBILE6-based motor vehicle emissions inventories with the previously approved MOBILE5-based inventories for the two Connecticut nonattainment areas, by pollutant, expressed in units of tons per summer day (tpd). These revised inventories were developed using the latest available information including vehicle registration data, traffic data, vehicle miles traveled, and growth assumptions. Non-road emissions were calculated using the latest version of EPA's non-road model.

September 2001. See: <http://www.dep.state.ct.us/air2/siprac/2001/pst199tsd.pdf>.

TABLE 2.—COMPARISON OF CONNECTICUT’S MOBILE5 AND REVISED MOBILE6-BASED EMISSIONS INVENTORIES

State of Connecticut	1990 VOC (tpd)	2007 VOC (tpd)	Percent reduction	1990 NO _x (tpd)	2007 NO _x (tpd)	Percent reduction
MOBILE5b-based emissions inventory	536.3	311.1	41.99	463.6	297.2	35.88
MOBILE6.2-based revised emissions inventory	587.3	341.8	41.80	452.3	285.7	36.82
Difference in % Reductions (M6.2–M5b) .....	.....	.....	– 0.18	.....	.....	0.94
“Excess” Reductions with MOBILE6.2 (after NO _x for VOC substitution at 0.61 to 0.83 ratio) .....	.....	.....	0.0	.....	.....	0.81

This relative reduction comparison shows that the reduction in NO_x emissions, on a percentage basis, is greater in the revised MOBILE6-based inventories than in the previously approved MOBILE5 inventories. For VOC emissions, the relative reduction in the revised MOBILE6-based inventories is slightly less than in the previously approved MOBILE5 inventories. However, the “deficit” in VOC reductions is more than offset with the “excess” in NO_x reductions when the technique that Connecticut DEP used in

its analysis is performed. This analysis satisfies the conditions outlined in EPA’s MOBILE6 Policy guidance, and demonstrates that the new levels of motor vehicle emissions calculated using MOBILE6 continue to support achievement of the projected attainment of the 1-Hour Ozone NAAQS by the attainment date of 2007 for Connecticut ozone nonattainment areas.

D. Are Connecticut’s Motor Vehicle Emissions Budgets Approvable?

Table 3 contains Connecticut’s revised budgets that EPA is approving

today. These budgets were developed using the latest planning assumptions, including 2000 vehicle registration data, VMT, speeds, fleet mix, and SIP control measures. For the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area, EPA is approving budgets for 2005 and 2007, and for the Greater Connecticut nonattainment area EPA is approving budgets for 2007.

TABLE 3.—MOBILE6.2 TRANSPORTATION CONFORMITY BUDGETS

Year	Connecticut portion of the New York-Northern New Jersey-Long Island non-attainment area		Greater Connecticut	
	VOC (tons/day)	NO _x (tons/day)	VOC (tons/day)	NO _x (tons/day)
2005	19.5	36.8	NA	NA
2007	16.4	29.7	51.9	98.4

As stated in section IIA above, EPA has posted an announcement on EPA’s Office of Transportation and Air Quality Web site <http://www.epa.gov/otaq/transp/conform/currstips.htm>, initiating the adequacy review process for the MOBILE6.2 2007 attainment year budgets for both areas in Connecticut in accordance with EPA guidance.¹² The 2005 budgets for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area must be approved before being used in a conformity analysis and are not subject to the adequacy process. The 2007 MOBILE6.2 attainment year budgets may be used for conformity determinations upon EPA’s determination of “adequate,” as described in EPA guidance¹³ and

specified in EPA’s approvals of Connecticut’s attainment demonstrations.¹⁴

Once the MOBILE6.2 2007 attainment year motor vehicle emissions budgets for the Connecticut portion of the New York-Northern New Jersey-Long Island are deemed adequate, transportation air quality conformity analyses, prepared with MOBILE6.2, can be evaluated in southwestern Connecticut using the SIP-approved MOBILE5b 2005 and the MOBILE6.2 2007 budgets for the emission budget tests.

The MOBILE6.2 budgets for 2005 and 2007 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and for 2007 for the Greater Connecticut

nonattainment area will be approved effective 60 days from today. Once the MOBILE6.2 budgets are approved, all future transportation conformity analyses in Connecticut will be required to demonstrate conformity with the new MOBILE6.2 budgets.

III. Final Action

EPA is approving Connecticut’s revision submitted on June 17, 2003 containing 2005 and 2007 motor vehicle emissions budgets using MOBILE6.2 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and 2007 budgets for the Greater Connecticut nonattainment area.

The EPA is publishing this action without a prior proposal because the Agency views this as a noncontroversial amendment 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 to approve the SIP revision should relevant adverse comments be

¹² Memorandum, “Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision,” issued May 14, 1999. A copy of this memorandum can be found on EPA’s Web site at www.epa.gov/otaq/transp/transpconf.htm.

¹³ Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity;

dated January 18, 2002; see <http://www.epa.gov/otaq/models/mobile6/m6policy.pdf>.

¹⁴ 66 FR 63921–63938; (December 11, 2001) (see page 63923 for a discussion regarding the MOBILE6 conformity budget adequacy determination for the Southwest Connecticut area); 66 FR 633–663 (January 3, 2001) (see page 635 for a discussion regarding the MOBILE6 conformity budget adequacy determination for the Greater Connecticut area).

filed. This rule will be effective February 17, 2004 without further notice unless the Agency receives relevant adverse comments by January 20, 2004.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If EPA receives no such comments, the public is advised that this rule will be effective on February 17, 2004 and EPA will take no further action on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. 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. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by February 17, 2004. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 10, 2003.

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

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

PART 52—[AMENDED]

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

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

Subpart H—Connecticut

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

§ 52.377 Control strategy: Ozone.

* * * * *

(b) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on September 16, 1998, February 8, 2000 and June 17, 2003. The revisions are for the purpose of satisfying the attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act for the Greater Connecticut serious ozone nonattainment area. The revision establishes an attainment date of November 15, 2007 for the Greater Connecticut serious ozone nonattainment area. Connecticut commits to conduct a mid-course review to assess modeling and monitoring progress achieved toward the goal of attainment by 2007, and submit the results to EPA by December 31, 2004. The June 17, 2003 revision

establishes MOBILE6-based motor vehicle emissions budgets for 2007 of 51.9 tons per day of volatile organic compounds (VOC) and 98.4 tons per day of nitrogen oxides (NO_x) to be used in transportation conformity in the Greater Connecticut serious ozone nonattainment area.

(c) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on October 15, 2001 and June 17, 2003. These revisions are for the purpose of satisfying the rate of progress requirement of section 182 (c)(2)(B) through 2007, and the contingency measure requirements of section 182 (c)(9) of the Clean Air Act, for the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area. The October 15, 2001 revision establishes motor vehicle emissions budgets for 2002 of 15.20 tons per day of VOC and 38.39 tons per day of NO_x to be used in transportation conformity in the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area. The June 17, 2003 revision establishes motor vehicle emissions budgets for 2005 of 19.5 tons per day of VOC and 36.8 tons per day of NO_x to be used in transportation conformity in the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area.

(d) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on September 16, 1998, February 8, 2000, October 15, 2001 and June 17, 2003. The revisions are for the purpose of satisfying the attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act for the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area. The June 17, 2003 revision establishes MOBILE6-based motor vehicle emissions budgets for 2007 of 16.4 tons per day of VOC and 29.7 tons per day of NO_x to be used in transportation conformity in the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area. Connecticut commits to adopt and submit by October 31, 2001, additional necessary regional control measures to offset the emission reduction shortfall in order to attain the one-hour ozone standard by November 2007. Connecticut commits to adopt and submit by October 31, 2001, additional necessary intrastate control measures to offset the emission reduction shortfall in order to attain the one-hour ozone standard by November 2007. Connecticut commits to adopt and submit additional restrictions on VOC emissions from mobile equipment and

repair operations; and requirements to reduce VOC emissions from certain consumer products. Connecticut also commits to conduct a mid-course review to assess modeling and monitoring progress achieved toward the goal of attainment by 2007, and submit the results to EPA by December 31, 2004.

[FR Doc. 03–31234 Filed 12–17–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 31

Tax Refund Offset

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS) is amending its tax refund offset regulation to reflect amendments to 31 U.S.C. 3720A made by tax refund offset provisions of the Debt Collection Improvement Act of 1996 (DCIA). The amended regulation changes the process by which HHS certifies and refers past-due debt to the Department of Treasury for tax refund offset to satisfy debt owed to the HHS.

EFFECTIVE DATE: December 18, 2003.

FOR FURTHER INFORMATION CONTACT: Katherine M. Drews, Associate General Counsel, General Law Division, Office of the General Counsel, Cohen Building, Room 4760, Washington DC 20201, 202–619–0150.

SUPPLEMENTARY INFORMATION:

Background

This final rule implements the tax refund offset provisions of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104–134, 110 Stat. 1321–358, codified at 31 U.S.C. 3720A. As required by the tax refund offset provisions of the DCIA, a Federal agency owed a past-due debt must notify the Secretary of the Treasury of such debt for collection by tax refund offset in accordance with regulations promulgated by the Secretary of the Treasury. The Financial Management Service (FMS), a bureau of the Department of the Treasury (Treasury), is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA. The Treasury Final Rule, as amended, is published in section 285.2 of title 31 of the Code of Federal Regulations.

Basic Provisions

In accordance with the requirements of the DCIA and the implementing regulations issued by the Department of the Treasury at 31 CFR 285.2, the rule establishes the rules and procedures for certifying and referring a past-due debt to FMS for tax refund offset, correcting and updating referral information transmitted to FMS, and providing the debtor with written notice at least 60 days before the Department refers a debt to FMS. This written notice informs the debtor of the nature and amount of the debt, that the debt is past-due and legally enforceable, that the Department intends to enforce collection by referring the debt to the Department of the Treasury for tax refund offset, and that the debtor has a right to inspect and copy Department records relating to the debt, enter into a repayment agreement, and request review and present evidence that all or part of the debt is not past-due or legally enforceable.

Rules and Procedures

Except for minor changes to make the provisions agency-specific, the final rule is substantially identical to the Treasury Final Rule. In accordance with the substantive and procedural requirements of the DCIA and the Treasury Final Rule, the final rule establishes HHS rules and procedures for:

1. Certifying and referring a past-due debt to FMS for tax refund offset.
2. Correcting and updating referral information transmitted to FMS.
3. Providing the debtor with written notice at least 60 days before referring a debt to FMS. This written notice must inform the debtor of the nature and amount of the debt, that the debt is past-due and legally enforceable, that the Department intends to enforce collection by referring the debt to the Department of the Treasury for tax refund offset, and that the debtor has a right to inspect and copy Department records relating to the debt, enter into a repayment agreement, and request review and present evidence that all or part of the debt is not past-due or legally enforceable.

Analysis of and Responses to Public Comments

No public comments were received.

Economic Impact

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), as amended by Executive Order 13258 (February 2002, Amending Executive Order 12866 on Regulatory Planning and Review) and