

under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not have 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). This action merely approves a state rule implementing a Federal requirement, 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.*).

#### *B. Submission to Congress and the Comptroller General*

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

#### *C. 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 January 3, 2006. 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 to approve the repeal Maryland's NO<sub>x</sub> Budget Trading Program under COMAR 29.11.27 and 29.11.28 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, Nitrogen dioxide, Ozone.

Dated: October 24, 2005.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

■ 40 CFR part 52 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 V—Maryland**

##### **§ 52.1070 [Amended]**

■ 2. In § 52.1070, the table in paragraph (c) is amended by removing the entries for COMAR 26.11.27 (26.11.27.01 through 26.11.27.14) and 26.11.28 (26.11.28.01 through 26.11.28.13).

[FR Doc. 05-21753 Filed 11-1-05; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 52 and 81**

[RME Docket Number R08-OAR-2005-UT-0006; FRL-7992-6]

#### **Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Provo Attainment Demonstration of the Carbon Monoxide Standard, Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of Utah. On April 1, 2004, the Governor of Utah submitted an attainment demonstration and plan for the Provo metropolitan area (hereafter, Provo area) for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS) to replace the demonstration and plan that were submitted by Governor Leavitt on July 11, 1994. The Governor's submittal also contained a request to redesignate the Provo area to attainment for the CO NAAQS and a maintenance plan which includes transportation conformity motor vehicle emission budgets (MVEB) for 2014 and 2015. The Governor also submitted revisions to: Utah's Rule R307-110-12, "Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide," which incorporates the attainment demonstration, plan, and maintenance plan; Utah's Rule R307-110-31, "Section X, Vehicle Inspection and Maintenance Program, Part A," which incorporates general requirements and applicability for motor vehicle emissions inspections; and Utah's Rule R307-110-34, "Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County," which incorporates a revised vehicle inspection and maintenance program for Utah County. The Governor's April 1, 2004 submittal also stated that the prior July 11, 1994 submittal of Utah's Rule R307-1-4.12, "Emissions Standards for Residential Solid Fuel Burning Devices and Fireplaces" to restrict woodburning in Utah County, remains part of her April 1, 2004 submittal and requested that Utah's Rule R307-301, "Oxygenated Gasoline Program," be eliminated from the Federally-approved SIP. We note that on September 20, 1999, the Governor submitted Utah

Rules R307-302-3 and -4, which together comprise a re-numbered and re-titled version of R307-1-4.12. The text of Rules R307-302-3 and -4 is identical to the text of Rule R307-1-4.12 that the Governor submitted on July 11, 1994. In this action, we are approving and incorporating by reference Rules R307-302-3 and -4, because these comprise the current version of the State rule. Approving these rules rather than the earlier version will avoid confusion to the public and will obviate the need for a future SIP revision merely to re-number the SIP. In the remainder of this notice, we will refer to the rule by its current numbers, unless the context dictates otherwise.

In this action, EPA is approving the Provo area's attainment demonstration and plan, the request for redesignation to attainment for the Provo area, the maintenance plan, the transportation conformity MVEBs for 2014 and 2015, the revisions to Part A of the Vehicle Inspection and Maintenance Program pertaining to general requirements and applicability, the revisions to Part D of the Vehicle Inspection and Maintenance Program pertaining to the program for Utah County, the revisions to Rule R307-110-12, the revisions to Rule R307-110-31, the revisions to Rule R307-110-34, Rules R307-302-3 and -4, and the request to remove Rule R307-301 from the Federally-approved SIP. EPA is also identifying the transportation conformity MVEB for the year 2000, which is derived from the attainment year emission inventory in the attainment plan. This action is being taken under section 110 of the Clean Air Act.

**DATES:** This rule is effective on January 3, 2006 without further notice, unless EPA receives adverse comment by December 2, 2005. If adverse comment is 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:** Submit your comments, identified by RME Docket Number R08-OAR-2005-UT-0006, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Web site: <http://docket.epa.gov/rmepub/index.jsp>. Regional Materials in EDOCKET (RME), EPA's electronic public docket and comment system for regional actions, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- E-mail: [long.richard@epa.gov](mailto:long.richard@epa.gov) and [russ.tim@epa.gov](mailto:russ.tim@epa.gov).

- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- Mail: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 200, Denver, Colorado 80202-2466.

- Hand Delivery: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 200, Denver, Colorado 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to RME Docket Number R08-OAR-2005-UT-0006. EPA's policy is that all comments received will be included in the public docket without change and may be made available at <http://docket.epa.gov/rmepub/index.jsp>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://regulations.gov), or e-mail. EPA's Regional Materials in EDOCKET and federal regulations.gov website are "nonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through EDOCKET or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET online or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the Regional Materials in EDOCKET index at <http://docket.epa.gov/rmepub/index.jsp>. Although listed in the index, 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 Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202-2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tim Russ, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 200, Denver, Colorado 80202-2466, phone (303) 312-6479, and e-mail at: [russ.tim@epa.gov](mailto:russ.tim@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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### Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *NAAQS* mean National Ambient Air Quality Standard.

(iv) The initials *SIP* mean or refer to State Implementation Plan.

(v) The word *State* means the State of Utah, unless the context indicates otherwise.

### I. General Information

#### A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes 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 public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

### II. What is the purpose of this action?

In this action, we are approving an attainment demonstration and plan for the year 2000 for the Provo area for the CO NAAQS to replace the demonstration and plan that were submitted by Governor Leavitt on July 11, 1994. As part of our action on the attainment demonstration and plan, we are identifying the transportation conformity MVEB for the year 2000. We are also approving a change in the legal designation of the Provo area from nonattainment for CO to attainment, we're approving the maintenance plan that is designed to keep the Provo area in attainment for CO for the next 10 years, we're approving the maintenance demonstration, and we're approving the maintenance plan's transportation conformity MVEBs for 2014 and 2015. All the above are addressed in the State's document entitled "Carbon Monoxide Provisions For Provo, Section IX, Part C.6" (hereafter, Provo CO Plan) which contains the Provo area's attainment plan and the maintenance plan and was included with the Governor's April 1, 2004 submittal.

In addition, we're approving revisions to Utah's Rule R307-110-12, that incorporates revisions to "Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide," that incorporates the Provo CO Plan ("Carbon Monoxide Provisions For Provo, Section IX, Part C.6"), revisions to Utah's Rule R307-110-31, that incorporates revisions to "Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability," and revisions to Utah's Rule R307-110-34, that incorporates revisions to "Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County." We are also approving Utah's Rules R307-302-3 and -4, "No Burn Periods for Carbon Monoxide" and "Violations," respectively, to restrict woodburning in Utah County, and we're approving the elimination of Utah's Rule R307-301, "Oxygenated Gasoline Program," from the Federally-approved SIP.

### III. What is the State's process to submit these materials to EPA?

The CAA requires States to observe certain procedural requirements in

developing SIP revisions. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur before the State submits the revision to us.

A. On February 19, 2004, the Utah Air Quality Board (UAQB) held a public hearing on the Provo year 2000 attainment demonstration and plan for the CO NAAQS, the request to redesignate the Provo area to attainment for the CO NAAQS, the maintenance plan, the MVEBs for 2014 and 2015, and the revisions to Utah's Rule R307-110-12, Utah's Rule R307-110-31, and Utah's Rule R307-110-34. The UAQB adopted these SIP revisions on March 31, 2004, they became State effective on May 18, 2004, and the Governor submitted them to us on April 1, 2004.

We evaluated the Governor's submittal and concluded that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. Pursuant to section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V and determined that the Governor's April 1, 2004, submittal was administratively and technically complete. We sent our completeness determination on July 2, 2004, in a letter from Robert E. Roberts, Regional Administrator, to Governor Olene Walker.

B. On June 23, 1998, the UAQB held a public hearing for the revisions to Utah's Rules R307-302-3 and 4, to restrict woodburning in Utah County. The UAQB adopted these SIP revisions on August 13, 1998, they became State effective on September 15, 1998, and the Governor submitted them to us on September 20, 1999.

We evaluated the Governor's submittal of Utah's Rules R307-302-3 and -4, and determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By operation of law under the provisions of section 110(k)(1)(B) of the CAA, the Governor's September 20, 1999, submittal was deemed complete on March 20, 2000.

### IV. Brief History of the Provo Area and the CO NAAQS

The Provo area was first designated nonattainment for the CO NAAQS on March 3, 1978 (43 FR 8964.) This designation was assigned by EPA pursuant to the requirements of the 1977 amendments to the Clean Air Act (CAA). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101-549, 104 Stat.

2399, codified at 42 U.S.C. 7401–7671q). In response to Clean Air Act Amendments of 1990, we designated the Provo area as nonattainment for CO under section 107(d)(1)(C) of the CAA, because the area had been designated as nonattainment before November 15, 1990. The Provo area was classified as a “moderate” CO nonattainment area with a design value greater than 12.7 parts per million (ppm). See 56 FR 56694, November 6, 1991. CO nonattainment areas classified as “moderate” were expected to attain the CO NAAQS as expeditiously as practical, but no later than December 31, 1995. Further information regarding this classification and the accompanying requirements are described in section 187 of the CAA and in the “General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.” See 57 FR 13498, April 16, 1992.

The provisions of section 187 of the CAA applicable to areas classified as “moderate” with a design value greater than 12.7 ppm, such as the Provo area, required that a SIP revision be submitted to EPA by November 15, 1992 that included: (1) A 1990 base year emission inventory, (2) a vehicle miles traveled (VMT) forecast, (3) contingency provisions that would go into place if the VMT forecast was exceeded or if the area failed to attain the CO NAAQS by December 31, 1995, (4) a motor vehicle inspection and maintenance (I/M) program, (5) periodic emission inventories beginning in September, 1995, continuing until the area is redesignated to attainment, and, (6) an attainment demonstration. In addition, section 211(m) of the CAA also required the implementation of an oxygenated fuels program. With respect to the oxygenated fuels requirement, section 211(m)(2)(B) of the CAA set the Federally-required oxygenate level at 2.7% oxygen by weight.

On July 11, 1994, the Governor submitted a revision to the Utah SIP (hereafter, July 11, 1994 submittal) that included a CO attainment demonstration, plan, and several other SIP revisions applicable to the Provo area. Among other provisions, the attainment plan relied on an enhanced motor vehicle inspection and maintenance (I/M) program, that was to be implemented by January 1, 1996, and the 2.7% oxygenated gasoline program. However, the commitment to implement an enhanced I/M program was not definite. Due to several technical and legal issues with the attainment demonstration (notably the State’s failure to implement the enhanced I/M program and miscalculation of credit for

woodburning emission reductions), EPA never took action on the July 11, 1994 submittal’s attainment demonstration, enhanced I/M program, contingency measures, VMT forecasting provisions, or woodburning requirements (Utah’s Rule R307–1–4.12.)

Over time, however, we did approve certain SIP revisions or materials relevant to the Provo area. These were the 1990 base year emission inventory (see 60 FR 33745, June 29, 1995) the 1993 periodic emission inventory (see 63 FR 18122, April 14, 1998) the 1996 periodic emission inventory (see 65 FR 63546, October 24, 2000) revisions to the State’s rule R307–8<sup>1</sup> “Oxygenated Gasoline Program” for the implementation of a 2.7% program (59 FR 55585, November 8, 1994) the 3.1% oxygen by weight gasoline program for Utah County (66 FR 14078, March 9, 2001) the improved basic I/M program for Utah County that was designed to satisfy the applicable requirements of both the CAA and section 348 of the National Highway Safety Designation Act (NHSDA) of 1995 (interim final approval 62 FR 31349, June 9, 1997; final approval 67 FR 57744, September 12, 2002), and the determination of attainment of the CO NAAQS for the Provo area along with the change from a 3.1% to a 2.7% by weight oxygenated gasoline program (67 FR 59165, September 20, 2002).

Additional historical information is also provided in section IX.C.6.a of the Provo CO Plan.

#### **V. The Provo Area’s Attainment/Maintenance Plan (Provo CO Plan): Contents**

As noted above, the Provo CO Plan contains both an attainment plan and a maintenance plan and is divided into six sections: an introduction section (IX.C.6.a), a CO monitoring section (IX.C.6.b), the attainment plan section with the attainment demonstration (IX.C.6.c), the maintenance plan section (IX.C.6.d), the maintenance demonstration (IX.C.6.e), and a section addressing transportation conformity (IX.C.6.f). We have reviewed the Provo CO Plan with respect to the relevant requirements of sections 107, 110, 175A, 176, 187, and 211 of the CAA and EPA policy and guidance and believe that approval of the Provo CO Plan is warranted. Below are our descriptions and analysis of how the Provo CO Plan meets the necessary provisions referenced above.

<sup>1</sup>In 1998, the State re-numbered rule R307–8 “Oxygenated Gasoline Program” as R307–301 and changed the title to “Utah and Weber Counties: Oxygenated Gasoline Program.”

#### **VI. EPA’s Evaluation of the Introduction and Monitoring Sections of the Provo CO Plan**

##### *A. Introduction Section (IX.C.6.a)*

This section of the Provo CO Plan provides a discussion of the CO NAAQS, the Provo area’s geographic setting and basic demographic information, and a brief history of the Provo designation history similar to that provided in our section IV above.

##### *B. CO Monitoring Network Section (IX.C.6.b)*

As described in 40 CFR § 50.8, the national primary ambient air quality standard for carbon monoxide is 9 parts per million (10 milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year. 40 CFR 50.8 continues by stating that the levels of CO in the ambient air shall be measured by a reference method based on 40 CFR part 50, Appendix C and designated in accordance with 40 CFR part 53 or an equivalent method designated in accordance with 40 CFR part 53. Attainment of the CO standard is not a momentary phenomenon based on short-term data. Instead, we consider an area to be in attainment if each of the CO ambient air quality monitors in the area doesn’t have more than one exceedance of the CO standard over a one-year period. 40 CFR § 50.8 and 40 CFR part 50, Appendix C. If any monitor in the area’s CO monitoring network records more than one exceedance of the CO standard during a one-year calendar period, then the area is in violation of the CO NAAQS.

As described in section IX.C.6.b, the Provo CO Plan is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the attainment demonstration and the maintenance demonstration. As presented in section IX.C.6.b of the Provo CO plan, ambient air quality monitoring data for calendar years 1994 through 2003 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the Provo nonattainment area. Further, we have reviewed ambient air quality data from 2004 and the first calendar quarter of 2005 and the Provo area shows continuous attainment of the CO NAAQS from 1994 to present.

All of the data discussed above were collected and analyzed as required by EPA (see 40 CFR § 50.8 and 40 CFR part 50, Appendix C) and have been archived by the State in our Air Quality System (AQS) national database.

## VII. EPA's Evaluation of the Clean Air Act Requirements Relevant to the Provo Area

Section IX.C.6.c.1 of the Provo CO Plan includes Table 3 which presents certain requirements that the State has referenced from sections 172 and 187 of the CAA for a "moderate" CO nonattainment area with a design value greater than 12.7 ppm. Our evaluation of how the Provo area met the relevant CAA requirements is as follows:

A. Base year emission inventory. The State submitted a 1990 base year CO emissions inventory for the Provo area on July 11, 1994 which met the requirements of sections 172(c)(3) and 187(a)(1) of the CAA. We approved this inventory on June 29, 1995 (60 FR 33745). The Governor's April 1, 2004 submittal contains a new base year emission inventory for the year 2000 that we are approving with this action. A further description of this inventory is provided below in section IX.

B. Vehicle Miles Traveled (VMT). Section 187(a)(2)(A) of the CAA requires a forecast of VMT in the nonattainment area for each year before the year in which the plan projects the NAAQS for CO to be attained in the area. The July 11, 1994 submittal projected attainment of the CO NAAQS by December 31, 1995 and the State met this CAA requirement with its submittal of projected VMT, for 1994, 1995, and 1996, in a letter dated March 28, 1995. As noted earlier, we determined the Provo area attained the CO NAAQS by December 31, 1995, in our action of September 20, 2002 (67 FR 59165).

C. Contingency provisions. Section 187(a)(3) requires the submittal of measures to be implemented in the event that the forecasted VMT, required by CAA section 187(a)(2)(A), is exceeded or the area does not attain the CO NAAQS by the applicable attainment date, which in this case was December 31, 1995. In the event these contingency provisions are triggered, they are to be implemented without any further action by the State. With the July 11, 1994 submittal, the State adopted as a contingency measure an increase in the oxygen content of gasoline, for the Provo area, from 2.7% by weight to 3.1% by weight. The State's oxygenated gasoline rule stated that the 3.1% by weight program would be triggered by either the actual VMT exceeding the forecasted VMT or if an enhanced I/M program was not implemented by January 1, 1996. In actuality, both conditions arose; the State did not implement an enhanced I/M program in the Provo area by January 1, 1996 (or for that matter, at all) and the Provo area

exceeded the forecasted VMT levels. Based on the above, the Provo area began a 3.1% by weight program in 1996. However, as we noted earlier, the Provo area attained the CO NAAQS by December 31, 1995 with only the benefit of a 2.7% program (see 67 FR 59165, September 20, 2002).

Generally, EPA does not insist on CAA section 187(a)(3) contingency measures for an area being redesignated to attainment. See 57 FR 13564, April 16, 1992. This is because the area must have already attained the standard to be redesignated, and section 175A of the Act requires that the maintenance plan have its own set of contingency measures.

D. Basic I/M. Section 187(a)(4) of the CAA includes a "Savings Clause for Vehicle Inspection and Maintenance Provisions of the State Implementation Plan." The reference in this section of the CAA relates back to section 182(a)(2)(B) which essentially directs States to the implementation of a two-speed idle check Basic I/M program that is at least as effective as the Federal Basic I/M performance standard as specified in 40 CFR 51.352. The State met this CAA obligation by submitting an improved I/M program revision, on March 15, 1996, that addressed both the requirements of the CAA and the National Highway System Designation Act (NHSDA) of 1995. As noted in our 2002 final rule approval for this program (67 FR 5774, September 12, 2002), Utah County's improved vehicle I/M program exceeds the Federal Basic I/M performance standard established in 40 CFR 51, subpart S ("Inspection/Maintenance Program Requirements for CO non-attainment areas.") We gave interim final approval of this I/M program SIP revision on June 9, 1997 (62 FR 31349) and final approval on September 12, 2002 (67 FR 5774).

E. Periodic inventory. Section 187(a)(5) requires the submittal of a periodic emission inventory, for the nonattainment area, every three years until the area is redesignated to attainment. The State submitted a 1993 periodic CO emission inventory for the Provo area on November 12, 1997. We approved the 1993 periodic inventory on April 14, 1998 (63 FR 18122). The State submitted a 1996 periodic CO emission inventory for the Provo area on June 14, 1999. We approved the 1996 periodic CO emission inventory on October 24, 2000 (65 FR 63546). The Governor's April 1, 2004 SIP submittal included a CO emission inventory for 2000 as a component of the year 2000 attainment demonstration. We consider this inventory sufficient to address the 1999 periodic inventory requirement.

F. Enhanced Vehicle Inspection and Maintenance. Section 187(a)(6) of the CAA requires "moderate" CO nonattainment areas to implement an enhanced I/M program as is provided in section 182(c)(3) of the CAA. The provisions of section 182(c)(3), however, only apply to nonattainment areas located in urbanized areas with a 1980 census of 200,000 or more. Because the 1980 census for the Provo (and Orem) urbanized area was 169,699, an enhanced I/M program was not required for the Provo area.

G. Attainment Demonstration and Specific Annual Emission Reductions. Section 187(a)(7) of the CAA requires "moderate" CO nonattainment areas to submit " \* \* \* a demonstration that the plan as revised will provide, for attainment of the carbon monoxide NAAQS by the applicable attainment date and provisions for such specific annual emission reductions as are necessary to attain the standard by that date." To address this CAA requirement, the Governor's July 11, 1994 submittal contained an attainment demonstration that was based on dispersion modeling using the Urban Airshed Model (UAM) and the CAL3QHC intersection "hotspot" model. As we noted in section IV above, the July 11, 1994 submittal's attainment plan was not Federally-approvable due to both legal and technical issues. However, to address this outstanding CAA requirement, on April 1, 2004, the Governor submitted a new attainment plan that demonstrates attainment in the year 2000. This new attainment plan is described in sections VIII and IX below. Its attainment demonstration is based on UAM-AERO and CAL3QHC-R modeling.

H. Oxygenated fuels. Section 211(m) of the CAA requires the implementation of an oxygenated gasoline program in any CO area designated as nonattainment and with a design value of 9.5 ppm or greater. As this CAA requirement applied to the Provo area, the State submitted a SIP revision on November 9, 1992 for the implementation of an oxygenated gasoline program in the Provo area. We approved this SIP revision on November 8, 1994 (59 FR 55585). In addition, we also approved revisions to the State's oxygenated gasoline program that involved several definition changes, average and maximum oxygen content, and recordkeeping, with our action of March 9, 2001 (66 FR 14078). We approved the most recent revisions on September 20, 2002 (67 FR 59165).

**VIII. EPA’s Evaluation of the Provo Area’s 2000 Attainment Demonstration and Maintenance Plan Modeling**

Section IX.C.6.c and section IX.c.6.e of the Provo CO Plan along with Volume 12, Section 4 of the State’s TSD contain thorough descriptions of the attainment demonstration and maintenance plan dispersion modeling. Major components of these activities are briefly described below.

*A. Dispersion Modeling*

1. Model Approach Selected. The State selected the EPA-approved photochemical model Urban Airshed Model with Aerosol (UAM–AERO) chemistry to estimate the background CO concentrations for the modeling domain. Meteorological fields for input into the UAM–AERO model were produced with the Diagnostic Wind Model (DWM). Emissions data were processed with the Sparse Matrix Operator Kernel Emissions (SMOKE) modeling system. The UAM–AERO dispersion modeling for carbon monoxide was performed in accordance with EPA’s June, 1992 modeling guidance entitled “Guideline for Regulatory Application of the Urban Airshed Model for Areawide Carbon Monoxide.” To evaluate the impacts at high volume/congested intersections, the State used the CAL3QHC–R model.

The incremental CO concentration impact results from the application of the CAL3QHC–R model (a more thorough discussion of the CAL3QHC–R model is included in section 4.a.5 of Volume 12 of the State’s TSD) were then added to the UAM–AERO background concentration for a total predicted CO concentration at a selected intersection. The above modeling effort was performed by the State in accordance with the State’s modeling protocol, that was approved by EPA, which is located in Volume 12, section 4.b.i of the State’s TSD.

2. Modeling Domain. Section 4.a.3.2 of Volume 12, of the State’s TSD discusses the UAM–AERO modeling domain. The domain covers portions of 13 counties in northern Utah and is 134 kilometers (km) east to west by 226 km north to south. This is the same modeling domain that was developed by the State for the UAM–AERO application for the development of the Utah PM<sub>10</sub> SIP revision. The State determined that using the same modeling domain for both SIP revisions was a simpler task rather than developing a smaller, specific domain for the CO modeling for the Provo area. EPA agreed with this approach after our review of the State’s modeling protocol which is included in section 4.b.i of Volume 12 of the State’s TSD. For both

the SMOKE emissions preprocessor and UAM–AERO, the modeling resolution was at a 2 km by 2km grid. A more in-depth discussion of the modeling domain is located in Section 4.a.3.2 of Volume 12, of the State’s TSD.

3. Episode Selection. Initially, the State evaluated six episodes from 1990 to 2001. As explained in the modeling protocol, in section 4.b.i of Volume 12 of the State’s TSD, and in section 4.a.2 of Volume 12 of the State’s TSD, two CO episodes were selected that met the overall requirements for necessary meteorological data, recent emission inventory data, and our modeling guidance. These episodes were January 12th to January 15th of 2000 and January 6th to January 9th of 2001. Additional discussion on episode selection can be found in sections 4.a.2 and 4.b.i of Volume 12 of the State’s TSD.

4. Modeling Emission Inventories. The State prepared modeling emission inventories for the 2000 and 2001 episodes and for the maintenance demonstration years of 2005, 2006, 2008, 2011, 2014, and 2015<sup>2</sup>. Emission totals by category for each of these years are presented in sections IX.C.6.c.(3), IX.C.6.e.(1) Table 12, and IX.C.6.e.(2) Table 13 of the Provo CO Plan and in Table VIII–1 below.

TABLE VIII–1.—SPECIFIC CO EMISSION INVENTORIES FOR THE PROVO AREA OF THE MODELING DOMAIN  
[All in tons per day of CO]

Source category	2000	2001	2005	2006	2008	2011	2014	2015
Point Sources .....	0.03	0.03	0.04	0.04	0.04	0.04	0.05	0.05
Area Sources .....	1.28	1.28	1.18	1.17	1.10	1.03	0.97	0.96
On-road Mobile Sources .....	59.44	65.38	70.44	72.10	59.69	55.75	52.88	52.46
Non-road Sources .....	3.05	3.05	3.05	3.03	2.97	2.90	2.86	2.87
Totals .....	63.80	69.74	74.71	76.34	63.80	59.72	56.76	56.34

Our review of the 2000 episode and 2000 attainment demonstration modeling shows that it should be approved. We have also reviewed the 2001 episode modeling and the maintenance demonstration modeling (for 2005, 2006, 2008, 2011, 2014, and 2015) and have concluded this modeling should also be approved. The State has adopted acceptable control strategies and has performed modeling that meets our modeling guidance requirements for the CO NAAQS. Modeling based on adopted and existing control measures demonstrates attainment of the CO NAAQS in 2000 and maintenance through 2015. Our

evaluation of the 2000 attainment plan appears in section IX below and our evaluation of the maintenance demonstration appears in section X below.

**IX. EPA’s Evaluation of the Provo Area’s 2000 Attainment Demonstration and Plan**

The State’s 2000 attainment plan for the Provo area is based on relevant data for the calendar year 2000; specifically for a winter-time episode. The monitoring data and episode selection are described further above in section VIII and in Volume 12, Section 4.b.ii of the State’s TSD. Components of the

attainment plan discussed here involve the base case emission inventory for 2000, the control measures in place in 2000, and the results of the attainment demonstration episode modeling.

*A. Base Case Emission Inventory for 2000*

As described in section IX.C.6.c.(3) of the Provo CO Plan, the State prepared a winter-time episode CO emission inventory that would serve both the purpose of a base case inventory for the 2000 attainment plan and as the attainment year inventory for the maintenance plan. The State used demographic data that was provided by

<sup>2</sup> The State also prepared and modeled emission inventories for 2004 (to consider the elimination of

the oxygenated gasoline program) and 2007 (at the

specific request of Mountainland Association of Governments.)

the metropolitan planning organization (MPO): the Mountainland Association of Governments (MAG). MAG provided the necessary demographic data, the applicable transportation data, and prepared the on-road mobile sources portion of the inventory. This information and associated analyses are provided in Volume 10, Section 3.b.i of the State's TSD. Area source emissions and non-road source emissions are discussed in Volume 10 and Volume 11 of the State's TSD. Section IX.C.6.c.(3)(a) of the Provo CO Plan states there are no major point sources of CO within the Provo City limits (the non-major point source CO emissions were included with the area sources). The State notes that with the development of the 1994 SIP submittal, two major point sources of CO emissions existed in Utah County, but outside the Provo City municipal boundary. With the development of the 1994 SIP submittal, the State performed an analysis that indicated these two major point sources did not have a significant impact on the Provo nonattainment area. This particular analysis is further described in Volume 1, Section 2 of the State's TSD. The State indicates in section IX.C.6.c.(3)(a) that emissions from these two major point sources were input into the UAM-AERO modeling domain and that the intersection modeling analyses with CAL3QHC-R were paired in time and space with the output from UAM-AERO.

The 2000 base-year episode inventory is presented in section IX.C.6.c(3) "Table 4. 2000 Provo Attainment-Episode Inventory" of the Provo CO Plan and the emissions are: Point sources = 0.03 tons per day (tpd) of CO, Area sources = 1.28 tpd of CO, Non-road = 3.05 tpd of CO, On-road mobile = 59.44 tpd of CO. The total is 63.80 tpd of CO.

#### *B. Control Strategies To Attain the CO NAAQS*

The 2000 base case inventory accounts for control measures that were in place for the Provo area at that time. These State control measures, that are described below and in section IX.C.6.c.(4)(c) of the Provo CO Plan, were: (1) Oxygenated gasoline, (2) motor vehicle I/M, and (3) residential woodburning controls. These State control measures were in addition to the Federally-mandated regulations for motor vehicle exhaust (or tailpipe) emissions and the Federally-mandated regulations for exhaust emissions from non-road engines.

1. Oxygenated Gasoline Program. As described in section IX.C.6.c.(4)(c)(i) of

the Provo CO Plan, the oxygenated gasoline program for 2000 involved a winter season control period of November through February, with a minimum requirement for 3.1% by weight oxygen content for gasoline sold in Utah County.

2. Gasoline Vehicle Emissions Inspection and Maintenance (I/M) Program. As described in section IX.C.6.c.(4)(c)(ii) of the Provo CO Plan, model year 1968 through 1995 cars and trucks fueled with gasoline, propane, or natural gas, owned by residents of Utah County, including the Provo area, were subject to an annual two-speed idle test program. Vehicles of model year 1996 and newer underwent an On-Board Diagnostics (OBD) inspection. The I/M program was primarily a de-centralized test-and-repair program. We gave interim final approval to this I/M program on June 9, 1997 (62 FR 31349). Based on the NHSDA, we determined that Utah County's I/M program was equivalent to a test-only program with our final approval on September 12, 2002 (67 FR 57744).

3. Residential Wood-burning Controls. As described in section IX.C.6.c.(4)(c)(iii) of the Provo CO Plan, the State initiated controls on residential woodburning stoves and fireplaces with the adoption of Rule R307-1-4.12, which was included with the July 11, 1994 submittal. Further information on this particular rule (now re-numbered R307-302-3 and -4) is provided in section XIV below and in Volume 1, Section 2 of the State's TSD. The rule provided for a "Red" status, or mandatory no-burn, when ambient CO concentrations reached 6.0 ppm and the forecasted meteorological conditions were such that carbon monoxide levels might continue to increase.

#### *C. Attainment Demonstration Episode Modeling for 2000*

As described in section IX.C.6.c.(4) of the Provo CO Plan, the attainment demonstration modeling for 2000 was performed using UAM-AERO dispersion model along with the CAL3QHC-R intersection model. The modeling was performed according to the Modeling Protocol, which is contained in Volume 12, Section 4.b.i of the State's TSD.

1. Modeling Analysis. In section IX.C.6.c.(4)(a) of the Provo CO Plan, the State indicates that the technical evaluation of the CO concentrations in the Provo area was completed in 1994 and concluded that the CO problem was occurring primarily at one intersection on University Avenue in Provo (see Volume 1, Section 2 of the State's TSD.) The 1994 analysis also considered the

potential influence of two large point sources of CO (Geneva Steel and Pacific States Cast Iron Pipe), but concluded that intersections in the Provo area were not being significantly affected by emissions from these sources. The State also states that detailed meteorological analysis of both the observation record and prognostic modeling (for use with UAM-AERO) showed that specific meteorological conditions accompanied the elevated CO concentrations. The State indicates that analysis of the CO ambient air quality monitoring database for the Provo area, along with the meteorological record over the last decade, essentially reaches the same conclusions as the original 1994 analysis: the elevated CO concentrations at specific intersections are locally produced by traffic and not influenced by emissions from point sources. We note that Section 2 of the Episode Selection Document (Volume 12, Section 4.b.ii of the State's TSD) describes in detail the analysis used to select the episode for the year 2000 attainment demonstration.

2. Episode Modeling and Attainment Demonstration for 2000. Volume 12, Section 4.a, "UAM-CAL3QHC Modeling" of the State's TSD describes in detail the use of the UAM-AERO dispersion model to generate the background, gridded CO values. This section of the TSD also describes the use of the CAL3QHC-R intersection model to calculate the contribution of CO emissions from automobiles at particular intersections. The predicted CO concentrations from these two models are summed to derive an estimate of the total CO concentrations that can be expected at specific intersections.

As required by us, the State evaluated the three intersections with the highest VMT counts and the three intersections with the lowest Level Of Service (LOS) in the Provo area. These intersections are: (1) University Avenue and University Parkway, (2) 1230 North (West Bulldog Boulevard) and University Avenue, (3) 1230 North (West Bulldog Boulevard) and 500 West (State Street), (4) 500 West and Center Street, and (5) 500 North and University Avenue with University Avenue and Center Street. The last entry is actually two intersections—these two intersections are the nearest major intersections to the ambient CO air quality monitor located at 363 North University Avenue. These intersections and the modeling results are presented in Table 5 in the Provo CO Plan and in Table IX-1 below.

The State modeled the 2000 episode with control strategies that were in

place at that time. Results of the modeling are presented in Table 5 of the Provo CO Plan and in our Table IX-1 below and indicate there were no modeled exceedances of the CO NAAQS (values are less than 9.0 ppm) at the

specified intersections. The State also states in section IX.C.6.c.(4)(a) of the Provo CO Plan that there were no modeled exceedances of the CO NAAQS throughout the modeling domain. Therefore, the State has satisfactorily

demonstrated attainment of the CO NAAQS for 2000 for the Provo area. Additional information about the 2000 episode modeling is provided in section VIII above and in Volume 12, Section 4.b.i of the State's TSD.

TABLE IX-1.—2000 EPISODE PREDICTED 8-HOUR CO CONCENTRATIONS

Intersection location	Concentration in ppm (UAM & CAL3QHC-R)
University Ave. & University Parkway .....	8.3
1230 North & University Ave .....	7.1
1230 North & 500 West .....	7.7
500 West & Center St .....	8.5
500 North & University Ave. & Center St .....	8.6

**X. EPA's Evaluation of the Provo Area's Redesignation Request and Maintenance Plan**

We have reviewed the Provo area's redesignation request and maintenance plan (section IX.C.6.d of the Provo CO Plan) and believe that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). Under the CAA, we can change designations if acceptable data are available and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

- (i) The Administrator determines that the area has attained the national ambient air quality standard;
- (ii) The Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);
- (iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;
- (iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,
- (v) The State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

Before we can approve the redesignation request, we must decide that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur simultaneously with final approval of the redesignation request. That's why

we are also approving the 2000 attainment demonstration and plan, and the revisions to Utah's Rule R307-110-12, Rule R307-110-31, Rule R307-110-34, and R307-1-4.12 (now re-numbered R307-302-3 and -4). The following are descriptions of how the section 107(d)(3)(E) requirements are being addressed.

*A. Redesignation Criterion: The Area Must Have Attained the Carbon Monoxide (CO) NAAQS*

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. As described in 40 CFR 50.8, the national primary ambient air quality standard for carbon monoxide is 9 parts per million (10 milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year. 40 CFR 50.8 continues by stating that the levels of CO in the ambient air shall be measured by a reference method based on 40 CFR part 50, Appendix C and designated in accordance with 40 CFR part 53 or an equivalent method designated in accordance with 40 CFR part 53. As stated above in section VI and as described in section IX.C.6.b of the Provo CO Plan, ambient air quality monitoring data for calendar years 1994 through 2003 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the Provo nonattainment area. Further, we have reviewed ambient air quality data from 2004 and the first calendar quarter of 2005 and the Provo area shows continuous attainment of the CO NAAQS from 1994 to present. All of the data discussed above were collected and analyzed as required by EPA (see 40 CFR 50.8 and 40 CFR part 50, Appendix C) and have been archived by the State in our Air Quality System (AQS)

national database. Therefore, we believe the Provo area has met the first component for redesignation: demonstration of attainment of the CO NAAQS. We note that the State of Utah has also committed, in the maintenance plan, to continue the necessary operation of the CO monitors in compliance with all applicable federal regulations and guidelines.

*B. Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA*

To be redesignated to attainment, section 107(d)(3)(E)(v) requires that an area must meet all applicable requirements under section 110 and part D of the CAA. We interpret section 107(d)(3)(E)(v) to mean that for a redesignation to be approved by us, the State must meet all requirements that applied to the subject area prior to or at the time of submission of a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of submission of a complete redesignation request.

1. CAA Section 110 Requirements

On August 15, 1984, we approved revisions to Utah's SIP as meeting the requirements of section 110(a)(2) of the CAA (see 45 FR 32575). Although section 110 of the CAA was amended in 1990, most of the changes were not substantial. Thus, we have determined that the SIP revisions approved in 1984 continue to satisfy the requirements of section 110(a)(2). In addition, we have analyzed the SIP elements we are approving as part of this action, and we have determined they comply with the relevant requirements of section 110(a)(2).



## 2. Part D Requirements

Before the Provo “moderate” CO nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Under part D, an area’s classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, whether classified or nonclassifiable. Subpart 3 of part D contains specific provisions for “moderate” CO nonattainment areas.

The relevant subpart 1 requirements are contained in sections 172(c) and 176. Our General Preamble (see 57 FR 13529, 13533, April 16, 1992) provides EPA’s interpretations of the CAA requirements for “moderate” CO areas.

The General Preamble (see 57 FR 13530, et seq.) provides that the applicable requirements of CAA section 172 are 172(c)(3) (emissions inventory), 172(c)(5) (new source review permitting program), 172(c)(7) (the section 110(a)(2) air quality monitoring requirements), and 172(c)(9) (contingency measures). It is also worth noting that we interpreted the requirements of sections 172(c)(2) (reasonable further progress—RFP) and 172(c)(6) (other measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See EPA’s September 4, 1992, memorandum entitled, “Procedures for Processing Requests to Redesignate Areas to Attainment”, and the General Preamble, 57 FR at 13564, dated April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4) (identification of certain emissions increases) and 172(c)(8) (equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

Regarding the requirements of sections 172(c)(3) (inventory) and 172(c)(9) (contingency measures) and how the Provo area met these requirements, please refer to our discussions above in section VII. A., “Base year inventory,” concerning section 187(a)(1) of the CAA, and section VII. C., “Contingency provisions,” concerning section 187(a)(3) of the CAA, which are provisions of subpart 3 of Part D of the CAA that establish the same requirements as sections 172(c)(3) and 172(c)(9).

For the section 172(c)(5) New Source Review (NSR) requirements, the CAA requires all nonattainment areas to meet several requirements regarding NSR,

including provisions to ensure that increased emissions will not result from any new or modified stationary major sources and a general offset rule. The State of Utah has a fully-approved NSR program (60 FR 22277, May 5, 1995.) The State also has a fully approved Prevention of Significant Deterioration (PSD) program (56 FR 29436, June 27, 1991) that will apply, instead of nonattainment NSR, if we approve the redesignation to attainment.

For the CAA section 172(c)(7) provisions (compliance with the CAA section 110(a)(2) Air Quality Monitoring Requirements), our interpretations are presented in the General Preamble (57 FR 13535). CO nonattainment areas are to meet the “applicable” air quality monitoring requirements of section 110(a)(2) of the CAA. We have determined that the Provo area has met the applicable air quality monitoring requirements of section 110(a)(2) of the CAA. See our descriptions in section VI above.

Section 176 of the CAA contains requirements related to conformity. Although EPA’s regulations (see 40 CFR 51.390) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment or subject to an EPA-approved maintenance plan, we have decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA’s 1996 approval of the Boston carbon monoxide redesignation. (See 61 FR 2918, January 30, 1996.)

The relevant Subpart 3 provisions were created when the CAA was amended on November 15, 1990. The new CAA requirements for “moderate” CO areas, such as Provo, required that the SIP be revised to include a 1990 base year emissions inventory (CAA section 187(a)(1)), vehicle miles traveled tracking (CAA section 187(a)(2)(A)), contingency provisions (CAA section 187(a)(3)), corrections to existing motor vehicle inspection and maintenance (I/M) programs (CAA section 187(a)(4)), periodic emission inventories (CAA section 187(a)(5)), enhanced motor vehicle I/M program (CAA section 187(a)(6)), and a modeled attainment demonstration with specific annual emissions reductions (CAA section 187(a)(7)). Title II, Part A of the CAA also requires the implementation of an oxygenated fuels program (CAA section 211(m)(1)).

These CAA Subpart 3 provisions have been met for the Provo area. Our discussions appear earlier in this action. Please refer to the sections of our action

listed as follows for the appropriate discussion: (a) 1990 base year emissions inventory requirement of section 187(a)(1) of the CAA, see section VII.A., (b) vehicle miles traveled tracking requirement of section 187(a)(2)(A) of the CAA, see section VII.B, (c) contingency provisions of section 187(a)(3) of the CAA, see section VII.C, (d) corrections to existing motor vehicle inspection and maintenance (I/M) programs as required by section 187(a)(4) of the CAA, see section VII.D, (e) periodic emission inventory requirement of section 187(a)(5) of the CAA, see section VII.E, (f) enhanced motor vehicle I/M program requirement of section 187(a)(6) of the CAA, see section VII.F, and (g) the requirement of section 187(a)(7) of the CAA for a modeled attainment demonstration with specific annual emissions reductions, see section VII.G. Regarding the CAA Title II, Part A requirement for the implementation of an oxygenated fuels program to meet the requirements of section 211(m)(1) of the CAA, see section VII.H.

### *C. Redesignation Criterion: The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA*

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k).

As noted above, EPA previously approved (or sufficiently explained otherwise) SIP revisions based on the pre-1990 CAA as well as SIP revisions required under the 1990 amendments to the CAA. In this action, EPA is approving the Provo area’s 2000 attainment demonstration and plan, the revisions to Rule R307–110–12, the revisions to Rule R307–110–31, the revisions to Rule R307–110–34, Rules R307–302–3 and –4, and the request to eliminate the Federal applicability of Rule R307–301. Thus, with our final approval of these SIP revisions, we will have fully approved the Provo area’s CO element of the SIP under section 110(k) of the CAA.

### *D. Redesignation Criterion: The Area Must Show That the Improvement in Air Quality Is Due to Permanent and Enforceable Emissions Reductions*

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from

implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

The CO emissions reductions for the Provo area, that are further described in section IX.C.6.c(4)(c) "Control Strategies to Attain the NAAQS" of the attainment plan, were achieved primarily through the State's basic I/M program, improved I/M program, woodburning controls, oxygenated gasoline program, and the Federal Motor Vehicle Control Program (FMVCP).

The four State control strategies listed above are fully discussed in section VIII.B above. Regarding FMVCP, these are Federal provisions that require vehicle manufacturers to meet more stringent vehicle emission limitations for new vehicles in future years. These emission limitations are phased in (as a percentage of new vehicles manufactured) over a period of years. As new, lower emitting vehicles replace older, higher emitting vehicles ("fleet turnover"), emission reductions are realized for a particular area such as Provo.

We have evaluated the various State and Federal control measures, the original 1990 base year emission inventory (60 FR 33745, June 29, 1995), the 1993 periodic emission inventory (63 FR 18122, April 14, 1998), the 1996 periodic emission inventory (65 FR 63546, October 24, 2000), and the 2000 attainment year inventory provided with the State's April 1, 2004 submittal and have concluded that the improvement in air quality in the Provo nonattainment area has resulted from emission reductions that are permanent and enforceable.

*E. Redesignation Criterion: The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A*

Section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved

a maintenance plan for the area meeting the requirements of section 175A of the CAA.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance 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 promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation. In addition, we issued further maintenance plan interpretations in the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (57 FR 13498, April 16, 1992), "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental" (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992.

In this **Federal Register** action, EPA is approving the maintenance plan for the Provo nonattainment area because we have determined, as detailed below, that the State's maintenance plan meets the requirements of section 175A and is consistent with the documents referenced above. Our analysis of the pertinent maintenance plan requirements, with reference to the Governor's April 1, 2004, submittal, is provided as follows:

1. Emissions Inventories—Attainment Year and Projections

EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble (see 57 FR 13498, April 16, 1992) and the September 4, 1992, Calcagni Memorandum referenced above. Under our interpretations, areas seeking to redesignate to attainment for CO may demonstrate future maintenance of the CO NAAQS either by showing that future CO emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. However, under the CAA, many areas (such as Provo) were required to submit a modeled attainment demonstration to show that reductions in emissions would be sufficient to attain the applicable NAAQS. For these areas, the maintenance demonstration is to be based on the same level of modeling (see the September 4, 1992, Calcagni Memorandum). As noted above in section IX, for the Provo area, this involved the use of UAM-AERO in conjunction with intersection modeling using the CAL3QHC-R model.

The maintenance plan that the Governor submitted on April 1, 2004, included comprehensive inventories of CO emissions for the Provo area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State used the 2000 attainment year inventory and included interim-year projections with a final maintenance year of 2015. More detailed descriptions of the 2000 attainment year inventory and the projected inventories are documented in the maintenance plan in section IX.C.6.e. and in Volumes 9, 10, 11, and 12 of the State's TSD. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures from the 2000 attainment year and the projected years are provided in Table X-1 below.

TABLE X-1.—CO EMISSION INVENTORIES FOR THE PROVO AREA PORTION OF THE MODELING DOMAIN  
[All in tons per day of CO]

Source category	2000	2001	2005	2006	2008	2011	2014	2015
Point Sources .....	0.03	0.03	0.04	0.04	0.04	0.04	0.05	0.05
Area Sources .....	1.28	1.28	1.18	1.17	1.10	1.03	0.97	0.96
On-road Mobile Sources .....	59.44	65.38	70.44	72.10	59.69	55.75	52.88	52.46
Non-road Sources .....	3.05	3.05	3.05	3.03	2.97	2.90	2.86	2.87
Totals .....	63.80	69.74	74.71	76.34	63.80	59.72	56.76	56.34

2. Demonstration of Maintenance

The September 4, 1992, Calcagni Memorandum states that where modeling was relied on to demonstrate maintenance, the plan is to contain a summary of the air quality concentrations expected to result from the application of the control strategies. Also, the plan is to identify and describe the dispersion model or other air quality model used to project ambient concentrations.

For the Provo CO maintenance demonstration, the State used UAM-AERO in conjunction with concentrations derived from the CAL3QHC-R intersection model. This was the same level of modeling the State

used for the 2000 Provo CO SIP attainment demonstration, discussed in section IX.C.6.c of the Provo CO Plan and in section IX above, to meet the requirements of section 187(a)(7) of the CAA. The UAM-AERO and CAL3QHC-R models were applied to both the 2000 and 2001 episodes and were used to predict concentrations in 2000, 2001, 2005, 2006, 2008, 2011, 2014, and 2015 for the intersections identified for the 2000 attainment demonstration (see section IX.C.6.c of the Provo CO Plan and section IX above.) This modeling effort was performed consistently with our modeling guidance.

The results of the State's modeling for the 2000 and 2001 episodes and

projections for 2004, 2005, 2006, 2007, 2008, 2011, 2014 and 2015 are presented in section IX.C.6.e.2 of the maintenance plan and in the Volume 12 of the State's TSD, and are reproduced in Table X-2 and Table X-3 below. We note that the State also modeled emissions for 2004 and 2007. The 2004 modeling was performed to confirm there would be no adverse impacts from eliminating the oxygenated gasoline program in that year and the 2007 modeling was performed at the specific request of Mountainland Association of Governments (MAG), which is the metropolitan planning organization (MPO) for the Provo area.

TABLE X-2.—2000 EPISODE AND PROJECTIONS, 8-HOUR MAXIMUM CO CONCENTRATIONS IN PPM [UAM-AERO and CAL3QHC-R combined results]

Intersection location	2000	2004	2005	2006	2007	2008	2011	2014	2015
University Ave. & University Parkway .....	8.3	7.9	7.9	8.1	6.5	6.5	6.0	5.6	5.5
1230 North & University Ave .....	7.1	6.6	6.6	6.8	5.5	5.5	5.0	4.7	4.6
1230 North & 500 West .....	7.7	7.2	7.2	7.3	5.9	5.9	5.4	5.0	4.9
500 West & Center St .....	8.5	8.0	8.0	8.2	6.5	6.5	6.1	5.6	5.6
500 North & University Ave. & Center St .....	8.6	8.4	8.3	8.5	6.9	6.9	6.3	5.9	5.8

TABLE X-3.—2001 EPISODE AND PROJECTIONS, 8-HOUR MAXIMUM CO CONCENTRATIONS IN PPM [UAM-AERO and CAL3QHC-R combined results]

Intersection location	2001	2004	2005	2006	2007	2008	2011	2014	2015
University Ave. & University Parkway .....	7.5	8.7	8.7	7.3	5.8	5.8	5.4	4.9	4.9
1230 North & University Ave .....	6.7	5.8	5.8	5.8	4.7	4.7	4.3	4.0	3.9
1230 North & 500 West .....	5.8	5.2	5.2	5.2	4.2	4.2	3.8	3.5	3.4
500 West & Center St .....	8.3	8.2	8.1	8.2	6.7	6.7	6.1	5.7	5.7
500 North & University Ave. & Center St .....	9.2	8.9	8.8	8.9	7.3	7.3	6.7	6.2	6.1

As presented in Table 15 of the Provo CO Plan, and our Table X-3 above, the 500 North and University Avenue and Center Street shows a modeled exceedance of the 8-hour CO NAAQS (9.0 ppm) in 2001 (predicted value of 9.2 ppm). The State notes in section IX.C.6.e.(2)(b) of the Provo CO Plan that the highest actual monitored 8-hour CO value in 2001 was 7.5 ppm. The State also notes that this CO value was recorded at a monitor that is only three blocks from this particular intersection. The State concludes that, because the monitored data for 2001 indicate no exceedances of the CO NAAQS for the Provo area and the modeled CO values for all future years are less than the 8-hour CO NAAQS (9.0 ppm), maintenance of the CO NAAQS is demonstrated.

We consider the State's position to be reasonable regarding the 9.2 ppm value

in 2001 and agree with the conclusion regarding the maintenance demonstration as it begins in 2004. As additional support, we note that an area is considered to be in attainment for the 8-hour CO NAAQS when no more than one value above 9 ppm is recorded at any single monitor in the same calendar year. Further, to account for instrument uncertainties, data are rounded to the nearest 1 ppm before comparison to the NAAQS. Thus, measured values up to 9.4 ppm are rounded to 9 ppm and not considered to exceed the CO NAAQS.

Therefore, we accept the State's modeling results, which predict no 8-hour CO values above 9 ppm after 2001 for all projection years, as evaluated with both the 2000 and 2001 episodes, and find that maintenance of the CO NAAQS is satisfactorily demonstrated through 2015. Further information regarding the modeling strategy and

results is included in Volume 12, section 4.b.ii of the State's TSD.

3. Monitoring Network and Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Provo area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in section IX.C.6.e.(5) of the Provo CO Plan. In section IX.C.6.e.(5)(a) the State commits to track emission inventory data and compare that information to the emission inventory data in the Provo CO Plan. In section IX.C.6.e.(5)(b) commits to continue the operation of the CO monitors in the Provo area and in section IX.C.6.e.(5)(c), to annually review this monitoring network and make changes as appropriate.

Based on the above, we are approving these commitments as satisfying the

relevant requirements and note that this approval will render the State's commitments federally enforceable.

#### 4. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures.

As stated in section IX.C.6.e.(4)(a) of the Provo CO Plan, the contingency measures for the Provo area will be triggered by a violation of the CO NAAQS.

The State, in coordination with the UAQB, will initiate a process to begin evaluating potential contingency measures no more than 30 days after being notified that a violation of the CO NAAQS has occurred. The State will present recommendations to the UAQB within 45 days of notification. The UAQB will then hold a public hearing to consider the contingency measures recommended by the State, along with any other contingency measures that the UAQB believes may be appropriate to effectively address the violation of the CO NAAQS. The necessary contingency measures will be adopted and implemented before November 1 of the beginning of the next winter season.<sup>3</sup>

The potential contingency measures that are identified in section IX.C.6.e.(4)(c) of the Provo CO Plan include (a) implementation of a 2.7% oxygenated fuels program in Utah County from November 1st through the end of February, and (b) a return to annual vehicle emissions inspections. A more complete description of the triggering mechanism and these contingency measures can be found in section IX.C.6.e.(4)(b) and (c) of the Provo CO Plan.

Based on the above, we find that the contingency plan provided in the Provo CO Plan meets the requirements of section 175A(d) of the CAA.

#### 5. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Utah has committed to submit a revised maintenance plan eight years after our approval of the redesignation. This provision for revising the

<sup>3</sup> Section IX.C.6.e.(4)(b) of the maintenance plan indicates that implementation of either the oxygenated gasoline program or annual vehicle inspections will require some lead time. We do not view this statement as modifying the commitment to implement any contingency measures before November 1 of the beginning of the next winter season following a violation. Our decision to approve the maintenance plan is partially based on this commitment.

maintenance plan is contained in section IX.C.6.e.(5)(f) of the Provo CO Plan.

#### 6. Revisions to Existing Control Measures for the Maintenance Plan

The Governor's submittal letter of April 1, 2004, stated that because the maintenance demonstration showed the CO NAAQS could be maintained through the next 10 years (*i.e.*, 2015), the Governor was requesting that EPA remove the Federal applicability of the oxygenated gasoline program for Utah County. This request was further described in section IX.C.6.e.(3) of the Provo CO Plan. There the State indicates that the UAM-AERO and CAL3QHC-R modeling did not include any emission reductions credits for an oxygenated gasoline program beginning in 2004 and extending through 2015. In addition, section IX.C.6.e.(3) states that due to better durability of emissions control equipment and a lower failure rate of newer vehicles, the State is switching from an annual to a biennial vehicle inspection requirement for vehicles less than six years old. The State's modeling accounts for this change and still demonstrates maintenance. We agree with these revisions to the Provo area's CO control measures. The modeling results presented in Tables 14 and 15 in the Provo CO Plan, and presented above in our Tables X-2 and X-3, demonstrate maintenance of the CO NAAQS from 2004 through 2015, even with these changes.

Based on our review and evaluation of the components of the Provo CO Plan, as discussed in our items X.A through X.E above, we have concluded that the State has met the necessary requirements in order for us to approve the Provo CO Plan's redesignation request from nonattainment to attainment for CO, the maintenance demonstration, and the required maintenance plan components.

#### XI. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budget(s) in the SIP (40 CFR sections 93.118 and 93.124). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the

preamble to the November 24, 1993, transportation conformity rule (58 FR 62193-96) and in the sections of the rule referenced above. In addition, section 93.118 of our conformity rule requires that motor vehicle emissions budgets (MVEB) must be established for the last year of a maintenance plan and may be established for any other years deemed appropriate by the State.

Based on the above, for transportation plan analysis years after the last year of the maintenance plan (in this case 2015 for the Provo CO Plan), a conformity determination must show that emissions are less than or equal to the maintenance plan's specified MVEB for the last year of the maintenance plan. EPA's conformity regulation (40 CFR 93.124) also allows the implementation plan to quantify explicitly the amount by which motor vehicle emissions could be higher while still demonstrating compliance with the maintenance requirement. The implementation plan can then allocate some or all of this additional "safety margin" to the emissions budget(s) for transportation conformity purposes.

Section IX.C.6.f of the Provo CO Plan briefly describes the applicable transportation conformity requirements, provides MVEB information for 2014 and 2015, identifies "safety margin," indicates that the UAQB allocated some of the "safety margin" to the 2014 and 2015 MVEBs, and provides UAM-AERO/CAL3QHC-R modeling that includes the 2014 and 2015 MVEBs for intersections noted above.

##### A. MVEB for 2014

In Table 13 of the Provo CO Plan, the State identified CO emissions from point sources of 0.05 tons per day (tpd), emissions from area sources of 0.97 tpd, emissions from non-road sources of 2.86 tpd, and emissions from on-road mobile sources of 52.88 tpd for 2014. Modeling with UAM-AERO and CAL3QHC-R, as described above, predicted maintenance of the CO NAAQS at the evaluated intersections as presented in Tables 14 and 15 of the Provo CO maintenance plan. For the 2014 MVEB, the State increased the on-road mobile source emissions from 52.88 tpd to 70.44 tpd, thus producing a "safety margin" of 17.56 tpd. In section IX.C.6.f of the Provo CO Plan, this 17.56 tpd of "safety margin" is allocated to the 2014 MVEB producing the 70.44 tpd MVEB. The State then applied the UAM-AERO and CAL3QHC-R models to the above-noted intersections with point, area, non-road, and on-road mobile source emissions discussed above and demonstrated there would be no exceedances of the 8-hour CO NAAQS. The modeling results for

the 2014 MVEB appear in Table 16 (2000 episode) and 17 (2001 episode) of the Provo CO Plan and are reproduced below in Table XI-1 and Table XI-2.

*B. MVEB for 2015 and Beyond*

In Table 13 of the Provo CO Plan, the State identified CO emissions from point sources of 0.05 tons per day (tpd), emissions from area sources of 0.96 tpd, emissions from non-road sources of 2.87 tpd, and emissions from on-road mobile sources of 52.46 tpd in 2015. Modeling

with UAM-AERO and CAL3QHC-R, as described above, predicted maintenance of the CO NAAQS at the evaluated intersections as presented in Tables 14 and 15 of the Provo CO Plan. For the 2015 and beyond MVEB, the State increased the on-road mobile source emissions from 52.46 tpd to 72.10 tpd, thus producing a "safety margin" of 19.64 tpd. In section IX.C.6.f of the Provo CO Plan, this 19.64 tpd of "safety margin" is allocated to the 2015 and beyond MVEB producing the 72.10 tpd

MVEB. The State then applied the UAM-AERO and CAL3QHC-R models to the above-noted intersections with point, area, non-road, and on-road mobile sources emissions discussed above and demonstrated there would be no exceedances of the 8-hour CO NAAQS. The modeling results for the 2015 MVEB appear in Table 16 (2000 episode) and 17 (2001 episode) of the Provo CO Plan and are reproduced below in Table XI-1 and Table XI-2.

TABLE XI-1.—2000 EPISODE PREDICTED CONFORMITY MVEB 8-HOUR CO CONCENTRATIONS

Intersection location	Concentration in ppm (UAM & CAL3QHC-R) for 2014	Concentration in ppm (UAM & CAL3QHC-R) for 2015 and beyond
University Ave. & University Parkway .....	6.3	6.3
1230 North & University Ave .....	5.4	5.4
1230 North & 500 West .....	5.7	5.8
500 West & Center St .....	6.3	6.3
500 North & University Ave. & Center St .....	6.6	6.5

TABLE XI-2.—2001 EPISODE PREDICTED CONFORMITY MVEB 8-HOUR CO CONCENTRATIONS

Intersection location	Concentration in ppm (UAM & CAL3QHC-R) for 2014	Concentration in ppm (UAM & CAL3QHC-R) for 2015 and beyond
University Ave. & University Parkway .....	5.2	5.3
1230 North & University Ave .....	4.4	4.4
1230 North & 500 West .....	3.8	3.8
500 West & Center St .....	5.9	5.9
500 North & University Ave. & Center St .....	6.6	6.6

Pursuant to section 93.118(e)(4) of EPA's transportation conformity rule, as amended, EPA must determine the adequacy of submitted mobile source emissions budgets. EPA reviewed the Provo CO Plan's emission budgets for 2014 and 2015 and beyond for adequacy using the criteria in 40 CFR 93.118(e)(4), and determined that the budgets were adequate for conformity purposes. EPA's adequacy determination was made in a letter to the Utah Division of Air Quality June 30, 2004, and was announced in the **Federal Register** on July 2, 2004 (69 FR 43412). As a result of this adequacy finding, the 2014 budget and the 2015 and beyond budget took effect for conformity determinations in the Provo area on July 17, 2004. However, we note that we are not bound by this determination in acting on the Provo CO Plan.

We have concluded that the State has satisfactorily demonstrated continued maintenance of the CO NAAQS while using transportation conformity MVEBs of 70.44 tpd for 2014 and 72.10 tpd for 2015 and beyond. Therefore, we are approving the transportation conformity

MVEB of 70.44 tpd of CO, for the Provo attainment/maintenance area, for 2014 and the transportation conformity MVEB of 72.10 tpd of CO for 2015 and beyond.

*C. Attainment Year MVEB*

In addition to the requirements relating to the maintenance plan MVEBs discussed above, EPA's regulations at 40 CFR 93.101 define the term "motor vehicle emissions budget" as "that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision \* \* \* for a certain date for the purpose of \* \* \* demonstrating attainment \* \* \* of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions." The State's attainment plan for Provo CO falls within EPA's definition of a control strategy implementation plan revision (see 40 CFR 93.101). By definition, the attainment year—in this case 2000—is a budget year under EPA's conformity regulations. Because the Provo CO plan does not explicitly identify a MVEB for

2000, the budget value defaults to the inventory value for on-road mobile sources for that year. That value, and thus the MVEB, for 2000 is 59.44 tpd of CO. This 2000 budget applies to conformity analysis years as specified in 40 CFR 93.118.

**XII. EPA's Evaluation of the Rule R307-110-31 Revisions**

The revisions to Rule R307-110-31 involve the incorporation into the Utah Rules revisions to Section X of the Utah SIP entitled "Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability." The revisions to Part A involve the removal of a historical statement in the "Utah I/M program history and general authority," the reference to the 2002 State legislative changes to Utah Code Annotated, Section 41-6-163.7 to allow I/M inspections to go from an annual to an every-other-year testing program for vehicles less than six years old, updated census figures for 1980, 1990, and 2000 in section 2, "Applicability," and an amendment to section 2, "Applicability," under "Test

Frequency” to reflect the changes noted above to Section 41–6–163.7 of the Utah Code Annotated. Upon our approval, these revisions to Rule R307–110–31 that were adopted by the UAQB on March 31, 2004 (State effective on May 18, 2004, submitted by the Governor to us on April 1, 2004) will become part of the Federally-enforceable SIP.

We have evaluated and determined that the revisions to Rule R307–110–31 involving “Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability” of the Utah SIP described above are acceptable and we are approving them. In particular, we note that the State accounted for the changes to the rule in its maintenance demonstration, and was still able to demonstrate maintenance of the CO NAAQS. Furthermore, we have concluded that the change from an annual to a biennial program for vehicles less than six years old will not impact attainment of any other NAAQS. We have based our conclusion on our evaluation of the State-submitted supplemental document to the TSD entitled “Technical Support Document for the Utah SIP, Section X, Vehicle Inspection & Maintenance Program, Part A, General Requirements, April, 2004 Final” and on our own analysis which is included in the docket for this action. The program change will not interfere with any other applicable requirements of the CAA. Thus, the requirements of section 110(l) of the CAA are met.

### **XIII. EPA’s Evaluation of the Rule R307–110–34 Revisions**

The revisions to Rule R307–110–34 involve the incorporation into the Utah Rules of revisions to Section X of the Utah SIP entitled “Vehicle Inspection and Maintenance Program, Part D, Utah County.” The revisions to Part D section 1. “I/M performance standard” involve the removal of certain historical statements, the removal of references to EPA’s MOBILE5a emission factor model, and the addition of new language reflecting EPA’s September 12, 2002 approval (67 FR 57744) of Utah County’s “National Highway System Designation Act (NHSDA) of 1995” improved I/M program. Revisions to Part D also involve the removal of the obsolete language in section 2, “Network type,” that dealt with enhanced I/M provisions for Utah County and changes to section 5, “Vehicle Coverage,” to go from an annual to an every-other-year testing program for vehicles less than six years old. In addition, revisions to Part D include the “Vehicle Emission Inspection/Maintenance Program”

ordinance and appendices for Utah County as adopted by the Utah County Board of County Commissioners on June 10, 2003, to replace the Utah County I/M ordinance and appendices that were in Part D dated December 29, 1999. Upon our approval, these revisions to Rule R307–110–34 that were adopted by the UAQB on March 31, 2004 (State effective on May 18, 2004, submitted by the Governor to us on April 1, 2004) will become part of the Federally-enforceable SIP.

We note that in section 12.2 of Appendix 1 and in section 7.0 of Appendix 4 of the June 10, 2003 Utah County I/M ordinance it is stated that the adopted cut-points for motor vehicle emissions inspections contained in Appendix C to Appendix 1 (of the ordinance) shall remain in effect until changed by the Utah County Commission or Director. In addition, section 12.2 of Appendix 1 and section 7.1 of Appendix 4 also state that the maximum concentration of cut-points shall be determined by the County Commission or the Director to meet the NAAQS established by EPA. The maintenance demonstration, however, is based on the cut-points contained in Appendix C to Appendix 1 of the County’s I/M ordinance. Given this, any decision by the County Commission or the Director to change the cut-points in Appendix C to Appendix 1 shall only be Federally-effective upon EPA’s approval of such change as a revision to the SIP. This is consistent with the interpretation of the Utah Division of Air Quality as expressed in an August 2, 2005 letter from Richard W. Sprott, Director, Utah Division of Air Quality, to Jerry Grover of the Utah County Commission.

We have evaluated and determined that the revisions to Rule R307–110–34 involving “Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County” of the Utah SIP described above are acceptable and we are approving them. As discussed in section XII above, we note that the State accounted for the changes to the rule in its maintenance demonstration, and was still able to demonstrate maintenance of the CO NAAQS. Furthermore, we have concluded that the change from an annual to a biennial program for vehicles less than six years old will not impact attainment of any other NAAQS. We have based our conclusion on our evaluation of the State-submitted supplemental document to the TSD entitled “Technical Support Document for the Utah SIP, Section X, Vehicle Inspection & Maintenance Program, Part A, General Requirements, April, 2004 Final” and on our own analysis which

is included in the docket for this action. The program change will not interfere with any other applicable requirements of the CAA. Thus, the requirements of section 110(l) of the CAA are met.

### **XIV. EPA’s Evaluation of Rules R307–302–3 and –4**

Utah’s Rules R307–302–3 and –4 are entitled “No-Burn Periods for Carbon Monoxide” and “Violations” respectively. The UAQB held a public hearing on the revisions to Utah’s Rule R307–302–3 and –4, to restrict woodburning in Utah County, on June 23, 1998. The UAQB adopted these SIP revisions on August 13, 1998, they became State effective on September 15, 1998, and the Governor submitted them to us on September 20, 1999. These revisions to Rules R307–302–3 and –4 address the requirements and mechanism for implementing mandatory “no-burn” periods, for residential solid fuel devices and fireplaces, when specified conditions occur which could lead to formation of elevated levels of carbon monoxide.

We note the Governor’s submittal letter of April 1, 2004, requested that EPA approve the July 11, 1994, woodburning rule revisions contained in Utah’s prior Rule R307–1–4.12 in conjunction with our action on the Provo CO Plan. As stated earlier in this action, the Governor’s September 20, 1999 submittal of Utah Rules R307–302–3 and –4, comprises a re-numbered and re-titled version of R307–1–4.12. The text of Rules R307–302–3 and –4 is identical to the text of Rule R307–1–4.12 that the Governor submitted on July 11, 1994.

We have evaluated these revisions to Utah’s Rules R307–302–3 and –4. We find them acceptable and are approving them.

### **XV. EPA’s Evaluation of the Removal of Rule R307–301**

As stated in the Governor’s April 1, 2004 submittal letter, because the Provo CO maintenance plan was able to demonstrate maintenance of the CO NAAQS for the next 10 years (i.e., 2015) without the use of an oxygenated gasoline program, the Governor requested that EPA remove the State’s Rule R307–301 from the Federally-approved SIP. Utah’s Rule R307–301 will, however, remain as a contingency measure as noted in section IX.C.6.e.(4) of the Provo CO Plan.

EPA is allowed to approve this elimination of the Federally-approved oxygenated gasoline program for Utah County and the Provo area based on section 211(m)(6) of the CAA which states:

“ATTAINMENT AREAS—Nothing in this subsection shall be interpreted as requiring an oxygenated gasoline program in an area which is in attainment for carbon monoxide, except that in a carbon monoxide nonattainment area which is redesignated as attainment for carbon monoxide, the requirements of this subsection shall remain in effect to the extent such program is necessary to maintain such standard thereafter in the area.”

The State has satisfied the above requirements of section 211(m)(6) as follows:

A. The Provo area is in attainment for the CO NAAQS. EPA made a determination of attainment for the CO NAAQS for the Provo area on September 20, 2002 (67 FR 59165.) In addition, as is presented in the Provo CO Plan, ambient air quality data have been archived in AQS that show the Provo area has been in attainment for the CO NAAQS for the period of 1994–2003. We have evaluated the ambient air quality data in AQS and have concluded the Provo area continued to attain the CO NAAQS in 2004 and the first calendar quarter of 2005. Therefore, the area has been in continuous attainment for the CO NAAQS from 1994 to the present. Further information on relevant ambient air quality data is presented in section VI.B and X.A above and in section IX.C.6.a of the Provo CO Plan.

B. The State has provided an adequate demonstration that shows, beginning in 2004, the oxygenated gasoline program is not needed to maintain the CO NAAQS in the Provo area. The State’s CO maintenance plan for the Provo area addresses this requirement. As described in section IX.C.6.e of the Provo CO Plan, the State used EPA’s MOBILE6.2 emission factor model to calculate on-road mobile source emissions, without any emission reduction benefits from an oxygenated gasoline program, for 2004, 2005, 2006, 2007, 2008, 2011, 2014 and 2015. These on-road mobile source emissions, along with projected point, area, and non-road emissions were then modeled with UAM–AERO and CAL3QHC–R. As discussed in section IX.C.6.e of the Provo CO Plan and in section X above, maintenance of the CO NAAQS is demonstrated for the time period 2004 through 2015 with the elimination of the oxygenated gasoline program beginning in 2004. Therefore, elimination of the oxygenated gasoline program will not interfere with continued maintenance of the CO NAAQS. In addition, in accordance with section 110(l) of the CAA, we find that elimination of the oxygenated gasoline program will not interfere with attainment of any other NAAQS or any

other applicable requirement of the CAA. Because the oxygenated gasoline program is a wintertime program, its elimination will have no impact on attainment/maintenance of the ozone NAAQS, which in Utah is a summertime concern. Regarding particulate matter, relevant information and data indicate that the elimination of the oxygenated gasoline program will have no impact on attainment/maintenance of either the PM<sub>10</sub> or the PM<sub>2.5</sub> NAAQS.

Consistent with the foregoing, we are approving the elimination of Utah’s Rule R307–301 from the Federally-approved SIP.

#### **XVI. Consideration of Section 110(l) of the CAA**

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. The Provo CO Plan’s attainment demonstration and plan, the maintenance plan, the revisions to the general requirements and applicability for automotive I/M, the revisions to the automotive I/M provisions for Utah County, the revisions addressing woodburning restrictions, and the elimination of the Federal applicability of the oxygenated gasoline program for Utah County will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA. Further detail is provided in sections XII, XIII, and XV of this action.

#### **XVII. Final Action**

In this action, EPA is approving the Provo area’s CO attainment demonstration and plan for 2000, the request for redesignation from nonattainment to attainment for CO for the Provo area, the Provo area’s maintenance plan, the transportation conformity CO motor vehicle emission budgets for the years 2014 and 2015, the revisions to Rule R307–110–12 (which incorporates the Provo CO Plan into the Utah Rules,) the revisions to Rule R307–110–31 (which incorporates the revisions to “Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability” into the Utah Rules), the revisions to Rule R307–110–34 (which incorporates the revisions to “Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County” into the

Utah Rules)<sup>4</sup>, and the request to eliminate the Federal applicability of Rule R307–301, all as submitted by the Governor on April 1, 2004. We are also approving Rules R307–302–3 and –4 which were submitted by the Governor on September 20, 1999. As part of this action, EPA is also identifying the Provo CO area motor vehicle emission budget of 59.44 tpd of CO for the year 2000.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the “Proposed Rules” section of today’s **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective January 3, 2006 without further notice unless the Agency receives adverse comments by December 2, 2005. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. 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.

#### **XVIII. 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

<sup>4</sup> Please note the condition EPA expresses in section XIII of this action, that any decision by the Utah County Board of Commissioners to change cut-points will not be effective to change the cut-points EPA is approving in Section X, Part D, Appendix C to Appendix 1 of the SIP absent EPA approval as a SIP revision.

impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have 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). This action 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. 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 January 3, 2006. 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

##### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

##### 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: October 24, 2005.

**Robert E. Roberts,**

*Regional Administrator, Region VIII.*

■ 40 CFR parts 52 and 81 are 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 TT—Utah

■ 2. Section 52.2320 is amended by adding paragraph (c)(62) to read as follows:

##### § 52.2320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(62) Revisions to the Utah State Implementation Plan, "Section IX, Part

C.6, Carbon Monoxide Provisions for Provo," as submitted by the Governor on April 1, 2004; revisions to UAC R307-110-12, "Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide," as submitted by the Governor on April 1, 2004; revisions to the Utah State Implementation Plan, "Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability," as submitted by the Governor on April 1, 2004; revisions to UAC R307-110-31, "Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability," as submitted by the Governor on April 1, 2004; revisions to the Utah State Implementation Plan, "Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County," as submitted by the Governor on April 1, 2004; revisions to UAC R307-110-34, "Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County," as submitted by the Governor on April 1, 2004; the removal of UAC R307-301 from the Federally-approved SIP as requested by the Governor on April 1, 2004; and UAC R307-302-3, and UAC R307-302-4, "No-Burn Periods for Carbon Monoxide" and "Violations," respectively, as submitted by the Governor on September 20, 1999.

(i) Incorporation by reference.

(A) UAC R307-110-12, as adopted by the Utah Air Quality Board on March 31, 2004, effective May 18, 2004. This incorporation by reference of UAC R307-110-12 only extends to the following Utah SIP provisions and excludes any other provisions that UAC R307-110-12 incorporates by reference: "Section IX, Part C.6, Carbon Monoxide Provisions for Provo," adopted by the Utah Air Quality Board on March 31, 2004, effective May 18, 2004.

(B) UAC R307-110-31, "Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability," as adopted by the Utah Air Quality Board on March 31, 2004, effective May 18, 2004.

(C) UAC R307-110-34, "Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County," as adopted by the Utah Air Quality Board on March 31, 2004, effective May 18, 2004.

(D) UAC R307-302-3, "No-Burn Periods for Carbon Monoxide," as adopted by the Utah Air Quality Board on August 13, 1998, effective September 15, 1998.

(E) UAC R307-302-4, "Violations," as adopted by the Utah Air Quality Board on August 13, 1998, effective September 15, 1998.



(ii) Additional materials.  
 (A) An August 2, 2005 letter from Richard Sprott, Utah Department of Environmental Quality, to Jerry Grover, Utah County Commission, addressing limits on Utah County authority to revise vehicle emission cut-points.  
 (B) An August 19, 2005 letter from Richard Sprott, Utah Department of Environmental Quality, to Richard Long, EPA Region VIII, providing supplemental Technical Support Documentation to Volumes 11 and 12 of the State's Technical Support Document

for the Provo area's carbon monoxide attainment demonstration and maintenance plan that was submitted by Governor Walker on April 1, 2004.  
 (C) A September 8, 2005 letter from Jan Miller, Utah Department of Environmental Quality, to Kerri Fiedler, EPA Region VIII, to address typographical errors in "Section X, Part D, Utah County Vehicle Emissions Inspection and Maintenance Program" that was submitted by Governor Walker on April 1, 2004.

**PART 81—[AMENDED]**

- 1. The authority citation for part 81 continues to read as follows:  
*Authority:* 42 U.S.C. 7401 *et seq.*
- 2. In § 81.345, the table entitled "Utah-Carbon Monoxide" is amended by revising the entry for "Provo Area" to read as follows:

**§ 81.345 Utah.**  
 \* \* \* \* \*

UTAH—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Provo Area				
Utah County (part) city of Provo .....	1/3/06	Attainment.		

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

\* \* \* \* \*  
 [FR Doc. 05-21837 Filed 11-1-05; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[OAR-2002-0031; FRL-7992-8]

RIN 2060-AK50

**National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants**

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

**ACTION:** Final rule; amendments.

**SUMMARY:** EPA is amending the national emission standards for hazardous air pollutants (NESHAP) for primary aluminum reduction plants. The amendments will revise the emission limit for polycyclic organic matter (POM) applicable to one potline subcategory. The amendments will revise the compliance provisions to

clarify the dates by which all plants must meet the NESHAP requirements, and to specify the time allowed to demonstrate initial compliance for a new or reconstructed potline, anode bake furnace, or pitch storage tank as well as an existing potline or anode bake furnace that has been shutdown and subsequently restarted. We are making these amendments to reduce compliance uncertainties and improve understanding of the NESHAP requirements.

**EFFECTIVE DATE:** November 2, 2005.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. OAR-2002-0031. All documents in the docket at listed in the EDOCKET index at <http://docket.epa.gov/edkpub/index.jsp>. Although listed in the index, some information is not publicly available, i.e., confidential business information 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 EDOCKET or in hard copy at the EPA Docket Center, Docket ID Number OAR-2002-0031, EPA West Building, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742. A reasonable fee may be charged for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Dr. Donna Lee Jones, EPA, Office of Air Quality Planning and Standards, Emission Standards Division, Metals Group (C439-02), Research Triangle Park, NC 27711, telephone number (919) 541-5251, fax number (919) 541-3207, e-mail address: [Jones.DonnaLee@epa.gov](mailto:Jones.DonnaLee@epa.gov).

**SUPPLEMENTARY INFORMATION:**  
*Regulated Entities.* The regulated categories and entities affected by the NESHAP include:

Category	NAICS code <sup>1</sup>	Examples of regulated entities
Industry .....	331312	Establishments primarily engaged in producing primary aluminum by electrolytically reducing alumina.
Federal government .....	.....	Not affected.
State/local/tribal government .....	.....	Not affected.

<sup>1</sup> North American Industry Classification System.