

from certain requirements of the Federal Food, Drug, and Cosmetic Act.

\* \* \* \* \*

(c) By administrative order published under section 513(f)(3) of the Federal Food, Drug, and Cosmetic Act, the Commissioner may, on the Commissioner's own initiative, change the classification from class III under section 513(f)(1) either to class II, if the Commissioner determines that special controls in addition to general controls are necessary and sufficient to provide reasonable assurance of the safety and effectiveness of the device and there is sufficient information to establish special controls to provide such assurance, or to class I if the Commissioner determines that general controls alone would provide reasonable assurance of the safety and effectiveness of the device. The procedures are as follows:

(1) The Commissioner publishes a proposed reclassification order in the **Federal Register** seeking comment on the proposed reclassification.

(2) Before or after the publication of a proposed reclassification order, the Commissioner may consult with the appropriate classification panel with respect to the reclassification of the device. The panel will consider reclassification in accordance with the consultation procedures of § 860.125.

(3) Following consideration of comments to a public docket and any panel recommendations or comments, the Commissioner may change the classification of a device by final administrative order published in the **Federal Register**.

(d) An administrative order under this section changing the classification of a device from class III to class II may establish the special controls necessary to provide reasonable assurance of the safety and effectiveness of the device.

■ 15. Amend § 860.136 as follows:

- a. Revise the section heading, paragraph (a), and paragraph (b) introductory text;
- b. Remove paragraph (b)(3);
- c. Redesignate paragraphs (b)(4) through (6) as paragraphs (b)(3) through (5), respectively;
- d. Revise newly redesignated paragraph (b)(4); and
- e. Add paragraphs (c) and (d).

The revisions and additions read as follows:

**§ 860.136 Procedures for transitional products under section 520(l) of the Federal Food, Drug, and Cosmetic Act.**

(a) Section 520(l)(2) of the Federal Food, Drug, and Cosmetic Act applies to reclassification proceedings initiated by the Commissioner or in response to a

request by a manufacturer or importer for reclassification of a device currently in class III by operation of section 520(l)(1). This section applies only to devices that the Food and Drug Administration regarded as "new drugs" before May 28, 1976.

(b) The procedures for effecting reclassification under section 520(l) of the Federal Food, Drug, and Cosmetic Act when initiated by a manufacturer or importer are as follows:

\* \* \* \* \*

(4) Within 180 days after the petition is filed (where the Commissioner has determined it to be adequate for review), the Commissioner, by order in the form of a letter to the petitioner, either denies the petition or classifies the device into class I or class II in accordance with the criteria set forth in § 860.3.

\* \* \* \* \*

(c) By administrative order, the Commissioner may, on the Commissioner's own initiative, change the classification from class III under section 520(l) of the Federal Food, Drug, and Cosmetic Act either to class II, if the Commissioner determines that special controls in addition to general controls are necessary and sufficient to provide reasonable assurance of the safety and effectiveness of the device and there is sufficient information to establish special controls to provide such assurance, or to class I if the Commissioner determines that general controls alone would provide reasonable assurance of the safety and effectiveness of the device. The procedures are as follows:

(1) The Commissioner publishes a proposed reclassification order in the **Federal Register** seeking comment on the proposed reclassification.

(2) Before or after the publication of a proposed reclassification order, the Commissioner may consult with the appropriate classification panel with respect to the reclassification of the device. The panel will consider reclassification in accordance with the consultation procedures of § 860.125.

(3) Following consideration of comments to a public docket and any panel recommendations or comments, the Commissioner may change the classification of a device by final administrative order published in the **Federal Register**.

(d) An administrative order under this section changing the classification of a device from class III to class II may establish the special controls necessary to provide reasonable assurance of the safety and effectiveness of the device.

Dated: March 18, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–06364 Filed 3–21–14; 11:15 am]

**BILLING CODE 4160–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Docket No. EPA–R02–OAR–2014–0182; FRL–9908–44–Region–2]

#### Approval and Promulgation of Implementation Plans; Carbon Monoxide Maintenance Plan, Conformity Budgets, Emissions Inventories; State of New York

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the New York State Department of Environmental Conservation. This revision will establish an updated ten-year carbon monoxide (CO) maintenance plan for the New York portion of the New York-Northern New Jersey-Long Island (NYCMA) CO area which includes the following seven counties: Bronx, Kings, Nassau, New York, Queens, Richmond and Westchester. In addition, EPA proposes to approve a revision to the CO motor vehicle emissions budgets for New York and revisions to the 2007 Attainment/Base Year emissions inventory.

The New York portion of the NYCMA CO area was redesignated to attainment of the CO National Ambient Air Quality Standard (NAAQS) on April 19, 2002 and maintenance plans were also approved at that time. By this action, EPA is proposing to approve the second maintenance plan for this area because it provides for continued attainment for an additional ten years of the CO NAAQS.

**DATES:** Comments must be received on or before April 24, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R02–OAR–2014–0182, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- Email: [Ruvo.Richard@epa.gov](mailto:Ruvo.Richard@epa.gov).
- Fax: 212–637–3901.
- Mail: Richard Ruvo, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290

Broadway, 25th Floor, New York, New York 10007-1866.

Hand Delivery: Richard Ruvo, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R02-OAR-2014-0182. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), 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 [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, 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 email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your email 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 the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency,

Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. EPA requests, if at all possible, that 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:** Henry Feingersh [feingersh.henry@epa.gov](mailto:feingersh.henry@epa.gov) for general questions, Raymond Forde [forde.raymond@epa.gov](mailto:forde.raymond@epa.gov) for emissions inventory questions, or Melanie Zeman [zeman.melanie@epa.gov](mailto:zeman.melanie@epa.gov) for mobile source related questions at the U.S. Environmental Protection Agency, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007-1866, telephone number (212) 637-4249, fax number (212) 637-3901.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

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## I. What is the nature of EPA's action?

EPA is proposing to approve an updated ten-year carbon monoxide (CO) maintenance plan for the New York portion of the New York-Northern New Jersey-Long Island (NYCMA) CO area. On April 19, 2002, the EPA approved a request from New York to redesignate the New York portion of the NYCMA CO area to attainment of the CO National Ambient Air Quality Standard (NAAQS) (67 FR 19337). In addition, the EPA also approved at that time a ten-year CO maintenance plan for the area. The Clean Air Act (the Act) requires that an area redesignated to attainment of the CO NAAQS must submit a second ten-year CO maintenance Plan to show how the area will continue to attain the CO standard for an additional ten years. On May 9,

2013, New York submitted a second ten-year CO maintenance plan for the New York portion of the NYCMA CO area and requested that EPA approve the plan. The following sections describe how the EPA made its determination proposing to approve the second ten-year maintenance plan. EPA is also proposing to approve a revision to the CO motor vehicle emissions budgets for New York. This additional State Implementation Plan (SIP) revision is discussed in section II.B.6. A more detailed discussion of EPA's review and proposed action is found in the Technical Support Document available in the Docket for this action, and by contacting the individuals in the For Further Information Section.

## II. What is the Carbon Monoxide Limited Maintenance Plan for the New York portion of the New York-Northern New Jersey-Long Island Carbon Monoxide area?

A maintenance plan is a SIP revision that must demonstrate continued attainment of the applicable NAAQS in the maintenance area for at least ten years. The Act requires that a second ten-year plan be submitted in order to assure that the area will continue to stay in compliance with the relevant NAAQS. For the NYCMA CO area, the New York State Department of Environmental Conservation is proposing to utilize EPA's limited maintenance plan approach, as detailed in the EPA guidance memorandum, "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, Group Leader, Integrated Policy and Strategies Group, Office of Air Quality and Planning Standards OAQPS, dated October 6, 1995. Pursuant to this approach, EPA will consider the maintenance demonstration satisfied for areas if the monitoring data show the design value is at or below 7.65 parts per million (ppm), or 85 percent of the level of the 8-hour CO NAAQS. The design value must be based on eight consecutive quarters of data. For such areas, there is no requirement to project emissions of air quality over the maintenance period. EPA believes if the area begins the maintenance period at, or below, 85 percent of the CO 8 hour NAAQS, the applicability of Prevention of Significant Deterioration (PSD) requirements, the control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the initial 10-year maintenance period. In addition, the design value for the area must continue to be at or below 7.65

ppm until the time of final EPA action on the redesignation.

### III. What is included in a maintenance plan?

Section 175A of the Act sets forth the elements of maintenance plans for areas seeking redesignation from nonattainment to attainment. The initial and subsequent ten-year plans must each demonstrate continued attainment of the applicable NAAQS for at least ten years after approval. EPA is proposing action on the second ten-year maintenance plan which covers the period from 2012 through 2022. The specific elements of a maintenance plan are:

#### A. Attainment Inventory

EPA's October 6, 1995 Limited Maintenance Plan guidance states that for inventory purposes the state is only required to submit an attainment inventory to EPA that is based on monitoring data which shows attainment. There is no requirement to project emissions over the maintenance

period. The calendar year inventory selected for the attainment inventory is 2007. This means if 2007 is a calendar year which has monitoring data which demonstrates attainment of the standard, the 2007 base year inventory can be used as the attainment year inventory and no projection inventories are required over the years of the maintenance period. Only calendar year 2007 summary emissions data (based on winter season day) are required. In addition, the inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include emissions during the time period associated with the monitoring data showing attainment.

New York submitted a limited maintenance plan which included a 2007 base year emissions inventory. The 2007 inventory is also classified as the attainment year inventory for the limited maintenance plan. New York has elected 2007 because it is the attainment year base year that will be

used for the limited maintenance plan and 2007 represents one of the years of violation free monitored data in the area. The inventory included peak winter season daily emissions from stationary point, stationary area, non-road mobile, and on-road mobile sources of CO. These emission estimates were prepared in accordance with EPA guidance.

EPA is proposing to approve the CO inventory for the counties of Bronx, Kings, Nassau, New York, Queens, Richmond and Westchester. Details of the inventory review are located in section VII. A. of this action. A more detailed discussion of how the emission inventory was reviewed and the results of EPA's review are presented in the technical support document.

Table 1 presents a summary of the 2007 CO peak winter season daily emissions estimates in tons per day for the NYCMA CO area. Again, under the Limited Maintenance Plan guidance, there is no requirement to project emissions over the maintenance period.

TABLE 1—2007 BASE YEAR INVENTORY NYCMA CO AREA  
[Tons/peak winter season day]

County	Point	Area	Off-highway mobile	Highway mobile	Total
Bronx .....	1.77	77.18	29.38	156.54	264.87
Kings .....	2.81	149.41	96.40	263.40	510.22
Nassau .....	3.52	81.07	118.93	580.89	784.40
New York .....	4.21	141.96	230.59	202.87	579.64
Queens .....	7.71	125.77	102.03	441.15	675.66
Richmond .....	1.48	25.57	21.12	130.41	178.58
Westchester .....	1.11	60.18	81.66	382.66	525.62
Total .....	22.61	661.14	678.31	2,257.93	3,519.99

#### B. Maintenance Demonstration

New York has met the Limited Maintenance Plan air quality criteria requirement by demonstrating that its highest monitored design value is less than 85 percent (7.65 parts per million) of the CO standard of 9.0 parts per million. The highest monitored design value in the NYCMA CO area for the 2012–2013 design year was 2.5 parts per million at a monitoring site in New Jersey. The highest monitored design value measured in the New York State portion of the NYCMA CO area was 1.5 parts per million. In addition, New York commits to continued implementation of all other Federal and State measures already implemented as part of its CO SIP. Thus, according to the Limited Maintenance Guidance, emission projections are not required.

#### C. Monitoring Network

New York continues to operate its CO monitoring network and will continue to work with the EPA through the air monitoring network review process as required by 40 CFR Part 58 to determine the adequacy of its network. New York will continue annual reviews of its data in order to verify continued attainment of the NAAQS. As mentioned earlier, all of New York's 8-hour design values are well below the 9.0 ppm 8-hour NAAQS for CO with the highest monitor in the New York portion of the NYCMA reading 1.5 ppm, as shown in Table 2.

TABLE 2—DESIGN VALUES FOR CO IN NEW YORK  
[8-Hour standard—9 parts per million]

Monitoring location	2012–2013 Design value (parts per million)
200th Street, Bronx .....	1.5
160 Convent Ave., New York ...	1.3
Queens College, Queens .....	1.1

In its SIP revision, New York used the 2010–2011 design values. EPA reviewed more recent data in addition to the 2010–2011 data and found the maximum 2012–2013 design value for New York to be 1.5 ppm, which continues to show attainment of the NAAQS.

#### *D. Verification of Continued Attainment*

New York will verify that the New York portion of the NYCMA CO area continues to attain the CO NAAQS through an annual review of its monitoring data. If any design value exceeds 7.65 ppm, New York will coordinate with EPA Region 2 to verify and evaluate the data and then, if warranted, develop a full maintenance plan for the affected maintenance area.

#### *E. Contingency Plan*

Section 175A (d) of the Act requires that a maintenance plan include a contingency plan which includes contingency measures, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. Contingency measures do not have to be fully adopted at the time of redesignation. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a specified event. In addition, the contingency plan includes a requirement that the State continue to implement all control measures used to bring the area into attainment.

The triggers specified in New York's previous maintenance plan are included in this Limited Maintenance Plan. If air quality monitoring data indicate that the CO NAAQS were exceeded, New York will analyze the data to determine the cause of the violation. If it is determined that the violation was caused by a non-local motor vehicle usage event, then the State will institute the contingency measures described below.

##### 1. Control Measures

New York has implemented a number of measures to control motor vehicle CO emissions. Emission reductions achieved through the implementation of these control measures are enforceable. These measures include the Federal Motor Vehicle Control Program, Federal reformulated gasoline, New York's pre-1990 modifications to its inspection and maintenance (I/M) program, and local control measures relied on in the SIP.

The State of New York has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to local economic downturn. EPA finds that the combination of existing EPA-approved SIP and Federal measures contribute to the permanence and enforceability of reductions in ambient CO levels that have allowed the New York portion of the NYCMA CO area to attain the NAAQS since 1992.

New York commits to continuing to implement all control measures used to bring the area into attainment.

##### 2. Contingency Measures

The State plans to continue to use the contingency measure from the original maintenance plan. The plan included implementation of an enhanced I/M program. This program is fully operational and the State commits to meet the performance standard for an enhanced I/M program in an effort to maintain the CO NAAQS. Although the plan is currently in place, EPA guidance allows for it to act as a contingency measure. In addition, since we had approved this measure in the previous maintenance plan, we are proposing to approve it in this action.

#### *F. Conformity*

Section 176(c) of the Act defines conformity as meeting the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. The Act further defines transportation conformity to mean that no Federal transportation activity will: (1) Cause or contribute to any new violation of any standard in any area; (2) increase the frequency or severity of any existing violation of any standard in any area; or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. The Federal transportation conformity rule, 40 CFR part 93 subpart A, sets forth the criteria and procedures for demonstrating and assuring conformity of transportation plans, programs and projects which are developed, funded or approved by the U.S. Department of Transportation, and by metropolitan planning organizations or other recipients of Federal funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. chapter 53).

The transportation conformity rule applies within all nonattainment and maintenance areas. As prescribed by the transportation conformity rule, once an area has an applicable SIP with motor vehicle emissions budgets (MVEB), the expected emissions from planned transportation activities must be consistent with such established budgets for that area.

In the case of the NYCMA CO area, however, the emissions budgets may be treated as essentially not constraining for the length of this second maintenance period as long as the area continues to meet the limited maintenance criteria, because there is no reason to expect that these areas will experience so much growth in that period that a violation of the CO

NAAQS would result. In other words, emissions from on-road transportation sources need not be capped for the maintenance period because it is unreasonable to believe that emissions from such sources would increase to a level that would threaten the air quality in this area for the duration of this maintenance period. Therefore, for the limited maintenance plan CO maintenance area, all Federal actions that require conformity determinations under the transportation conformity rule are considered to satisfy the regional emissions analysis and "budget test" requirements in 40 CFR 93.118 of the rule.

Since limited maintenance plan areas are still maintenance areas, however, transportation conformity determinations are still required for transportation plans, programs and projects. Specifically, for such determinations, transportation plans, transportation improvement programs, and projects must still demonstrate that they are fiscally constrained (40 CFR part 108) and must meet the criteria for consultation and Transportation Control Measure (TCM) implementation in the conformity rule (40 CFR 93.112 and 40 CFR 93.113, respectively). In addition, projects in limited maintenance areas will still be required to meet the criteria for CO hot spot analyses to satisfy "project level" conformity determinations (40 CFR 93.116 and 40 CFR 93.123) which must incorporate the latest planning assumptions and models that are available. All aspects of transportation conformity (with the exception of satisfying the emission budget test) will still be required.

If the NYCMA CO area should monitor CO concentrations at or above the limited maintenance eligibility criteria or 7.65 parts per million then this maintenance area would no longer qualify for a limited maintenance plan and would revert to a full maintenance plan. In this event, the limited maintenance plan would remain applicable for conformity purposes only until the full maintenance plan is submitted and EPA has found its motor vehicle emissions budget adequate for conformity purposes or EPA approves the full maintenance plan SIP revision. At that time regional emissions analyses would resume as a transportation conformity criteria.

EPA has also posted the Limited Maintenance plan for the NYCMA CO area on our Transportation Conformity Adequacy Web site for a thirty day public comment period beginning June 11, 2013. No public comments were received.

#### IV. What is the New York emissions inventory?

Section 182(a)(3) and 172(c)(3) of the Act requires the periodic submission of a base inventory for SIP planning processes to address the pollutants for the eight hour-ozone, PM<sub>2.5</sub> and CO national ambient air quality standard. Identifying the base year gives certainty to states that requires submission of the ozone, PM<sub>2.5</sub> and CO emission inventories periodically. These requirements allow the EPA, based on the states' progress in reducing emissions, to periodically reassess its policies and air quality standards and revise them as necessary. Most important, the ozone, PM<sub>2.5</sub> and CO inventories will be used to develop and assess new control strategies that the states will need to submit in their attainment demonstration SIPs for the new national ambient air quality standards for ozone, PM<sub>2.5</sub> and for CO. The base year inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. The base year inventory plays an important role in modeling demonstrations for areas classified as nonattainment and outside transport regions. For the reasons stated above, ideally EPA would therefore emphasize the importance and benefits of developing a comprehensive, current, and accurate emission inventory (similar to the 1990 base year inventory effort). In this case, the 2007 base year has been selected as the inventory that will be used for planning purposes for the NYCMA CO area.

There are specific components of an acceptable emission inventory. The emission inventory must meet certain minimum requirements for reporting each source category. Specifically, the source requirements are detailed below.

The review process, which is described in supporting documentation, is used to determine that all components of the base year inventory are present. This review also evaluates the level of supporting documentation provided by the state, assesses whether the emissions were developed according to current EPA guidance, and evaluates the quality of the data.

The review process is outlined here and consists of 8 points that the inventory must include. For a base year emission inventory to be acceptable, it must pass all of the following acceptance criteria:

1. Evidence that the inventory was quality assured by the state and its implementation documented.
2. The point source inventory was complete.

3. Point source emissions were prepared or calculated according to the current EPA guidance.

4. The area source inventory was complete.

5. The area source emissions were prepared or calculated according to the current EPA guidance.

6. Non-road mobile emissions were prepared according to current EPA guidance for all of the source categories.

7. The method (e.g., HPMS or a network transportation planning model) used to develop VMT estimates followed EPA guidance.

8. The MOBILE model was correctly used to produce emission factors for each of the vehicle classes.

Based on EPA's review, New York satisfied all of EPA's requirements for purposes of providing a comprehensive, accurate, and current inventory of actual emissions for CO areas. Where applicable, CO peak winter season daily emissions are provided for CO nonattainment area. The inventory was developed in accordance with *Emission Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulation*, dated August 2005. A summary of EPA's review is given below:

1. The Quality Assurance (QA) plan was implemented for all portions of the inventory. The QA plan included a QA/Quality control (QC) program for assessing data completeness and standard range checking. Critical data elements relative to the inventory sources were assessed for completeness. QA checks were performed relative to data collection and analysis, and double counting of emissions from point, area and mobile sources. QA/QC checks were conducted to ensure accuracy of units, unit conversions, transposition of figures, and calculations.

2. The inventory is well documented. New York provided documentation detailing the methods used to develop emissions estimates for each category. In addition, New York identified the sources of data used in developing the inventory.

3. The point source emissions are complete in accordance with EPA guidance.

4. The point source emissions were prepared/calculated in accordance with EPA guidance.

5. The area source emissions are complete and were prepared/calculated in accordance with EPA guidance.

6. Emission estimates for the non-road mobile source categories were correctly based on the latest non-road mobile model and prepared in accordance with EPA guidance.

7. The method used to develop VMT estimates was in accordance with EPA guidance and was adequately described and documented in the inventory report.

8. Latest Mobile model was used correctly for each of the vehicle classes. The 2007 base year inventory has been developed in accordance with EPA guidance. Therefore, EPA is proposing to approve the 2007 base year CO emission inventory.

A more detailed discussion of how the emission inventory was reviewed and the results of the review are presented in the technical support document. Detailed emission inventory development procedures can be found in the following document: *Emission Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulation*, dated August 2005. See Table 1 for a summary of 2007 CO peak winter season daily emission estimates by source sector and by county for the NYCMA CO area.

#### V. What action is EPA proposing to take?

EPA has evaluated New York's submittals for consistency with the Act and Agency regulations and policy. EPA is proposing to approve New York's CO limited maintenance plan because it meets the requirements set forth in section 175A of the Act and continues to demonstrate that the NAAQS for CO will continue to be met for the next ten years. EPA is proposing to approve the revisions to the CO motor vehicle emissions budgets for New York. Finally, this notice also proposes to approve revisions to the 2007 base year emission inventories.

EPA views the SIP revisions proposed in today's proposal as separable actions. This means that if EPA receives adverse comments on particular portions of this notice and not on other portions, EPA may choose not to take final action at the same time in a single notice on all of these SIP revisions. Instead, EPA may choose to take final action on these SIP revisions in separate notices.

Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Region 2 Office by one of the methods discussed in the ADDRESSES section of this action.

#### VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k);

40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference,

Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: March 10, 2014.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

[FR Doc. 2014-06585 Filed 3-24-14; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

**[EPA-R01-OAR-2012-0707; A-1-FRL-9908-36-Region 1]**

#### Approval and Promulgation of State Plans (Negative Declarations) for Designated Facilities and Pollutants: Connecticut, Maine, New Hampshire, and Vermont; Withdrawal of State Plan for Designated Facilities and Pollutants: New Hampshire; Technical Corrections to Approved State Plans (Negative Declarations): Rhode Island and Vermont

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve negative declarations for hospital/medical/infectious waste incinerators (HMIWI) for the State of Connecticut and the State of New Hampshire and negative declarations for sewage sludge incinerators (SSI) for the State of Maine and the State of Vermont. EPA is also proposing to approve the withdrawal of a previously-approved State Plan for HMIWI in the State of New Hampshire. Lastly, EPA is proposing technical corrections to Clean Air Act Sections 111(d) and 129 State Plan (Negative Declaration) approvals for Other Solid Waste Incinerators (OSWI) for the State of Rhode Island and the State of Vermont.

**DATES:** Written comments must be received on or before April 24, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2012-0707 by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *Email*: [mcdonnell.ida@epa.gov](mailto:mcdonnell.ida@epa.gov).

3. *Fax*: (617) 918-0653.

4. *Mail*: "Docket Identification Number EPA-R01-OAR-2013-0109", Ida McDonnell, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxic, & Indoor

Programs Unit, 5 Post Office Square—Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912.

5. *Hand Delivery or Courier*. Deliver your comments to: Ida McDonnell, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxic, & Indoor Programs Unit, 5 Post Office Square—Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

#### FOR FURTHER INFORMATION CONTACT:

Patrick Bird, Air Permits, Toxic, & Indoor Programs Unit, Air Programs Branch, Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Mail Code: OEP05-2, Boston, MA, 02109-0287. The telephone number is (617) 918-1287. Mr. Bird can also be reached via electronic mail at [bird.patrick@epa.gov](mailto:bird.patrick@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules Section of this **Federal Register**, EPA is approving the State's State Plan revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should 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.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.