

Dated: October 21, 1999.

David A. Ullrich,

Acting Regional Administrator, Region 5.

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

PART 52—[AMENDED]

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

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

Subpart Y—Minnesota

2. Section 52.1220 is amended by adding paragraph (c)(51) to read as follows:

§ 52.1220 Identification of Plan.

* * * * *

(c) * * *
 (51) On November 14, 1995, July 8, 1996, September 24, 1996, June 30, 1999, and September 1, 1999, the State of Minnesota submitted revisions to its State Implementation Plan for carbon monoxide regarding the implementation of the motor vehicle inspection and maintenance program in the Minneapolis/St. Paul carbon monoxide nonattainment area. This plan approves Minnesota Statutes Sections 116.60 to 116.65 and Minnesota Rules 7023.1010-7023.1105. This plan also removes Minnesota Rules Part 7023.1010, Subp. 35(B), Part 7023.1030, Subp. 11(B,C),

and Part 7023.1055, Subp. 1 (E)(2) from the SIP.

(i) Incorporation by reference.

(A) Minnesota Statutes Sections 116.60 to 116.65;

(B) Minnesota Rules 7023.1010–7023.1105 (except Part 7023.1010, Subp. 35(B), Part 7023.1030, Subp. 11(B,C), and Part 7023.1055, Subp. 1 (E)(2)).

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3. In § 52.1222 the table is amended by revising the entry for motor vehicles to read as follows:

§ 52.1222 EPA-approved Minnesota State regulations.

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TABLE 52.1222.—EPA APPROVED REGULATIONS:

Rule description	Minnesota rule numbers	Contents of SIP	Effective date	Relevant ¶s in § 52.1220 ¹
Motor Vehicles.	7023.1010–7023.1105	All rules except Part 7023.1010, Subp. 35(B), Part 7023.1030, Subp. 11(B,C), and Part 7023.1055, Subp. 1 (E)(2).	November 29, 1999.	c51

¹ Recodifications affect essentially all rules but are shown only for substantially revised rules.
² "Existing" sources are sources other than those subject to a new source performance standard.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MN58–01–7283; FRL–6465–4]

Approval and Promulgation of State Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of Minnesota's request to redesignate the Minneapolis/St. Paul area, which includes Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington, and Wright Counties to attainment for carbon monoxide (CO). The EPA is also approving the corresponding 175A maintenance plan associated with the redesignation request as a revision to the Minnesota State Implementation Plan (SIP) for attaining and maintaining the National Ambient Air Quality Standard (NAAQS) for CO. The EPA proposed to approve this plan on May 13, 1999 (64 FR 25855).

DATES: This rule will be effective November 29, 1999.
ADDRESSES: Copies of the SIP revision, public comments and EPA's responses are available for inspection at the following address: Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Michael Leslie at (312) 353–6680 before visiting the Region 5 Office.)
 A copy of these SIP revisions are available for inspection at the following location: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680.

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I. Background

A. Minneapolis/St. Paul CO Nonattainment Area

On March 3, 1978 (43 FR 8902), pursuant to section 107 of the Clean Air Act (Act), EPA designated the Minneapolis/St. Paul area as nonattainment for CO. Under the 1990 amendments to the Act, the EPA is authorized to designate nonattainment areas and to classify them according to degree of severity. Therefore, on November 16, 1991 (56 FR 56694), the EPA designated the Minneapolis/St. Paul area moderate CO nonattainment.

B. Redesignation Request

On March 23, 1998, pursuant to Section 107(d)(3) of the Act, the State of Minnesota requested the redesignation of the Minneapolis/St. Paul area to attainment with respect to the CO NAAQS. In order to qualify for redesignation, an area must first demonstrate that monitored air quality levels are within the applicable NAAQS. Since attaining the standard in 1995 and 1996, air quality monitors in the Minneapolis/St. Paul area continue to show attainment of the CO NAAQS. Therefore, pursuant to section 107(d) of the Act, the area is eligible for redesignation from nonattainment to attainment. In order to ensure continued attainment of the CO standard, Minnesota also submitted a maintenance plan under section 175A of the Act. Once redesignation is approved, the section 175A maintenance plan will become a federally enforceable part of the SIP for the Minneapolis/St. Paul area.

II. Public Comments

On May 13, 1999, the EPA proposed approval of a revision to the Minnesota SIP for attainment and maintenance for the NAAQS for CO (64 FR 25855) and opened a 30 day comment period on the proposed action. During the comment period, the Izaak Walton League of America, Envirotest Corporation, and Envirotest Corporation's consultant ENVIRON submitted adverse comments on EPA's proposed action. These comments are summarized below, along with EPA's response.

A. Comments From the Izaak Walton League of America

Comment: Discontinuance of the Vehicle Inspection/Maintenance (I/M) Program Leaves the State without a Fully-Approved SIP for the Area.

In the proposal, EPA stated that the Agency "will not finalize its approval of the redesignation until such time that EPA approves the state's I/M SIP for the Minneapolis St. Paul area." 64 FR 25855, 25858 (May 13, 1999). But the Legislature has subsequently discontinued the I/M program. Clearly, EPA cannot finalize this proposed redesignation without a fully approved SIP in place. 42 U.S.C. § 7407(d)(3)(E)(ii). Just as clearly, EPA has stated that a fully approved SIP sufficient to justify a redesignation to attainment for CO must include an EPA-approved vehicle I/M program.

EPA Response: As discussed in the May 13, 1999 proposal, the SIP for the Minneapolis/St. Paul area must be fully approved in order to be redesignated to

attainment. At the time of proposal, the EPA had approved every required element into the SIP, except for the I/M program. As noted in EPA's proposed action on the redesignation request, final approval of the redesignation request is contingent on the approval of the I/M program. EPA proposed full approval of the I/M plan on August 6, 1999 (64 FR 42888) and is finalizing its approval elsewhere in today's **Federal Register**.

Furthermore, EPA policy contained in a September 4, 1992, memorandum from John Calcagni, Director of the Air Quality Management Division entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" (Calcagni memo) notes that "the State will be expected to maintain its implemented control strategy despite redesignation to attainment, unless such measures are shown to be unnecessary for maintenance." Additional guidance on this issue is contained in a memorandum dated September 17, 1993, from Michael Shapiro, Acting Assistant Administrator for Air and Radiation entitled, "State Implementation Plan Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide National Ambient Air Quality Standards on or after November 15, 1992" (Shapiro memo). This memo states:

As a general policy, a State may not relax the adopted and implemented SIP upon the area's redesignation to attainment. States should continue to implement existing control strategies in order to maintain the standard. However, section 175A recognizes that States may be able to move SIP measures to the contingency plan upon redesignation if the State can adequately demonstrate that such action will not interfere with maintenance of the standard. The type of demonstration necessary is dependent upon the pollutant for which the area has been redesignated to attainment.

In order to make such a demonstration for an area redesignated to attainment for CO, EPA believes that the State could submit a revised control strategy demonstration showing that the measure is not necessary to maintain the standard.

In its redesignation request, Minnesota shows through an emissions analysis, as well as through microscale modeling, that the area can maintain the CO NAAQS without the implementation of the I/M program. This analysis is described in more detail in EPA's proposed approval of the State's I/M SIP published on August 6, 1999 (64 FR 42888). The EPA has reviewed the State's emissions inventory and modeling analyses and finds that they meet applicable guidance and requirements. Therefore, the State has

made the necessary demonstration that the I/M program is not necessary to maintain the CO NAAQS. In accordance with this policy, the State must include the program as a contingency measure in the maintenance plan for the redesignated area, which it has done.

Today's approval of Minnesota's I/M SIP applies to the program while it remains in effect, while recognizing the potential redesignation of the Minneapolis/St. Paul area to attainment. This action also approves the State's plan to discontinue the program after the area is redesignated to attainment and move it to the contingency measures portion of the maintenance plan for the area in accordance with the policy noted above and the requirements of the Act. The State has made the necessary corrections to its I/M plan, and has also made the appropriate demonstrations that the program is not necessary for attainment. Therefore, the I/M plan has been fully approved, fulfilling the requirement that the area have a fully approved SIP in order to be redesignated to attainment.

Comment: Minnesota has not demonstrated that the improvements to CO are due to permanent and enforceable emissions decreases.

EPA also must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions before an area can be redesignated. 42 U.S.C. 7407(d)(3)(E)(iii). The State has based its request on statements that this element has been met through the implementation of federally enforceable FMVCP, oxygenated fuel and vehicle I/M reductions. But as noted above, the vehicle I/M program will no longer be implemented.

EPA response: Section 107(d)(3)(E)(iii) requires that, for the EPA to approve a redesignation, it must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions. The Calcagni memo clarifies this requirement by stating that "attainment resulting from temporary reductions in emission rates (e.g., reduced production or shutdown due to temporary adverse economic conditions) or unusually favorable meteorology would not qualify as an air quality improvement due to permanent and enforceable emission reductions." As discussed in the May 13, 1999 **Federal Register** notice, the Minneapolis/St. Paul area has reasonably demonstrated that permanent and enforceable emission reductions are responsible for the recent improvement in air quality. This demonstration was accomplished through an estimate of the reductions

(from a nonattainment year, 1990 to an attainment year, 1996) of CO achieved primarily through implementation of the Federal Motor Vehicle Control Program (FMVCP), oxygenated gasoline and the I/M program, in line with the Calcagni memo. However, since the I/M program may be discontinued upon redesignation, the EPA has analyzed the State's emissions data to ensure that the area can meet the permanent and enforceable test without counting the I/M program. This analysis indicates that the permanent and enforceable reductions from FMVCP and the oxygenated gasoline programs are large enough to meet the permanent and enforceable test without reductions from I/M. The State, therefore, adequately demonstrated that the improvement in air quality is due to permanent and enforceable emission reductions.

The commenter notes that the I/M program will be discontinued in future years. A future year analysis is necessary as part of an approvable maintenance plan under sections 107(d)(3)(E)(iv) and 175(A) of the Act. In general, maintenance plans are designed to show that an area will continue to remain in attainment of the applicable NAAQS for a period of at least ten years beyond approval of a redesignation request. As noted in the Calcagni memo, States must make a maintenance demonstration, either through an emissions analysis, or through computer modeling, that future year emissions levels will not cause a violation of the NAAQS. This demonstration should include an analysis of future growth in industry and population, increases in the number of vehicle miles traveled, and other changes that would affect air quality levels in the area, such as the discontinuation of a required control program. The State of Minnesota has made this demonstration through both the emissions analysis and modeling methods in accordance with EPA's emissions inventory and modeling guidance. The State's Technical Support Document (TSD) for the redesignation request contains an analysis of emissions levels with and without the I/M program, and has shown that the CO standard can be maintained without I/M in the future. A more detailed discussion of the I/M demonstration is contained in EPA's proposed approval of the I/M SIP, published on August 6, 1999 (64 FR 42888).

Comment: Minnesota does not have an approvable maintenance plan for the area.

Minnesota also must submit, and EPA must approve, a maintenance plan for the area. 42 U.S.C. 7407(d)(3)(E)(iv). EPA has stated that an approvable

maintenance plan for the area must include the state's continuance of "all the control measures contained in the SIP prior to redesignation," and contingency measures in the event of a future CO problem. 64 FR 25855, 25859 (May 13, 1999). Among those contingency measures is a basic vehicle I/M program. Id. at 25860-61. But EPA seems unaware that the Minnesota Legislature has invalidated such programs.

EPA response: As noted in the Calcagni memo "the State will be expected to maintain its implemented control strategy despite redesignation to attainment, unless such measures are shown to be unnecessary for maintenance." Additional guidance on moving implemented programs to the contingency plan portion of the maintenance plan is contained in the Shapiro memo. As noted above, this memo allows for an area to discontinue a required measure and move it to the contingency plan if the State is able to make the appropriate demonstrations. Minnesota has submitted a modeling-based revised control strategy demonstration showing that the area can maintain the CO NAAQS without the implementation of the I/M program. This analysis is described in more detail in EPA's proposed approval of the State's I/M SIP published on August 6, 1999 (64 FR 42888). The EPA has reviewed the State's emissions inventory and modeling analyses and finds that they meet applicable guidance and requirements. Therefore, the State has made the necessary demonstration that the I/M program is not necessary to maintain the CO NAAQS in accordance with the Shapiro memo. As required, the State has included the program as a contingency measure in the maintenance plan for the redesignated area. The commenter is incorrect in stating that the "Minnesota Legislature has invalidated such programs," since the I/M program continues to operate and is clearly identified as a contingency measure in the State's maintenance plan.

Comment: The redesignation request, coupled with the vehicle I/M discontinuance, means that all requirements of section 110 of the Act are not met.

In order for an area to be redesignated to attainment, the state must show that it has met "all requirements applicable to the area under Section 110 of this title and part D of this subchapter." 42 U.S.C. 7407(d)(3)(E)(v). We read this as requiring the state to demonstrate and the Agency to consider and determine whether plans for implementation, maintenance and enforcement of all

NAAQS, promulgated or revised, would continue in the event of the redesignation. This proposal, however, accompanied as it will be by the discontinuance of the vehicle I/M program, will undoubtedly result in increased oxides of nitrogen (NO_x) emissions (as well as increased CO). NO_x are precursors, along with volatile organic compounds (VOCs), of ozone smog. Automobiles and other vehicles emit NO_x and VOCs, as well as CO. When the vehicle I/M program is discontinued, we believe that automobiles will pollute in an unchecked fashion in Minnesota, causing increases in NO_x and VOC emissions. Increased NO_x emissions, however, and the resulting implications for the area's and state's ability to meet the 1-hour and 8-hour NAAQS for ozone have not been assessed as part of this redesignation. We believe that the statute requires EPA to make such an analysis where it is aware that there is a risk that any air quality problem may ensue. Indeed the Agency has noted that contingency plans must be in place "to assure prompt correction of any air quality problems." 64 FR 25855, 25859 (May 13, 1999). However the proposed redesignation does not include analysis of the potential effects on the area's ozone status to be expected from the CO redesignation and subsequent lifting of the vehicle I/M program. We believe this makes the redesignation request unapprovable.

EPA response: As noted above, the State's I/M SIP is approved elsewhere in today's **Federal Register**. As a result, the area has met all requirements of section 110 and Part D of the Act. At present, the I/M program remains in operation and the State has made the required demonstrations to discontinue the program after redesignation to attainment for CO.

Under the sections 107 and 175A of the Act, the State is only required to address the pollutant for which the area was violating and demonstrate that there will not be subsequent violations of the applicable NAAQS following redesignation. The State has performed modeling that shows continued attainment of the CO standard, and projected CO emissions through the maintenance period which show decreases from the attainment level. Notwithstanding the commenter's interpretation of EPA's proposed action, which stated that "maintenance plans must contain contingency measures, with schedules to assure prompt correction of any air quality problems" (64 FR 25859), section 175A(d) of the Act specifies that "each plan revision submitted under this section shall

contain such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area." Clearly, this language indicates that contingency plans need only include measures for the pollutant for which the area is being redesignated.

Section 110(l) of the Act notes that "the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of this Act." While the I/M program was put into place for purposes of CO, the issue of whether the discontinuation of the I/M program will interfere with the area's ability to meet other applicable NAAQS must be addressed. As noted above, I/M programs do have additional air quality benefits in that they reduce emissions of VOC and NO_x, both precursors of ground level ozone.

Historically, however, the Minneapolis/St. Paul area has never experienced a ground level ozone nonattainment problem. The EPA has reviewed monitoring data for the one-hour ozone levels recorded since 1980, showing attainment of the one-hour NAAQS. In fact, monitors in the area have not shown a single exceedance of the one-hour ozone NAAQS since 1990. The one-hour ozone NAAQS that was established in 1979 allows three exceedances of the standard at any monitor over a three year period before an area is considered to violate the standard. In no year since 1980 have more than two exceedances occurred, including 1988, a year known for its high ozone levels around the country. In 1980, by far the worst year on record in the Minneapolis/St. Paul area, three monitors in the area recorded only five exceedances of the one-hour ozone standard. Even then, the three year values at these monitors did not show a violation of the NAAQS. Since the last exceedance in 1990, ozone levels measured in the Minneapolis/St. Paul area have continued to drop off and remain well below the health based one-hour ozone standard. The current ozone design value, the measure that EPA uses to assess the nonattainment status of an area, in Minneapolis/St. Paul is 24 percent below the one-hour ozone NAAQS with a value of .091 ppm compared to the .120 ppm standard.

In 1997, the EPA established a new, more stringent eight-hour ozone standard based on more recent health effects information. Since that time, EPA has been developing guidance and

regulations to establish compliance strategies for the new standard. As part of this effort, the EPA will be establishing new nonattainment areas for the eight-hour standard in July 2000. In preparation for this activity, the EPA has analyzed eight-hour ozone data for areas around the country to see which areas have monitored levels over the new standard. The analysis that was done for Minnesota concludes that since 1993, the first year that eight-hour ozone information is available, current eight-hour concentrations are well below the health-based NAAQS. Unlike the one-hour standard which is exceedance based, allowing three exceedances over a three year period, the eight-hour standard looks at the average of the fourth highest level over a three year period. Since 1993, no monitor in the area has recorded a fourth high over the eight-hour standard at any time. In order to be considered in violation of the NAAQS, the average of the fourth high over a three year period would need to be over the standard. EPA's analysis shows that monitors in the Minneapolis/St. Paul area are well below these levels, and does not expect the area to experience a nonattainment problem in the future.

Much of the improvement in ozone levels nationwide has been attributed to the reduction in emissions from the automobile. The EPA continues to establish more stringent motor vehicle emissions standards at the national level and emissions from the automobile continue to drop dramatically. This, along with other control programs, has brought many areas into attainment with the one-hour ozone NAAQS without implementation of I/M programs. The ozone levels recorded in Minneapolis/St. Paul are well below levels seen in areas that have been successfully redesignated. Since the area has never experienced an exceedance of the one-hour ozone standard, continues to show low eight-hour ozone values, and automobile emissions continue to decline overall, the EPA has no reason to believe that any marginal increase in VOC and NO_x emissions resulting from the shutdown of the I/M program will interfere with the area's ability to meet either the one-hour or the eight-hour ozone NAAQS standard.

B. Comments from Envirotec Corporation

Comment: We are concerned with the disposition of a series of CO violations that took place in September 1998. According to the EPA Aerometric Information Retrieval System (AIRS) web page (<http://www.epa.gov/airs/>

[nonattn.html](#)) Minneapolis had experienced violations of the NAAQS for CO. We learned that EPA allowed MPCA to erase these violations. It is our understanding that the MPCA was successful in getting these violations erased from the database because the problem was explained to be an equipment malfunction, yet that same piece of equipment is still in place and there were no repairs made to it! This seems odd to us. It appears that the monitoring system is used as a measure of air quality until such time as the air quality levels are exceeded.

EPA response: The EPA retrieved the air quality data for the 1997 and 1998 CO season from AIRS. The data illustrates that all the monitors in the area continue to demonstrate attainment of the CO NAAQS.

On September 26-28, 1998, a downtown Minneapolis, MN CO monitor (27-053-0954), located at 528 Hennepin Avenue, measured three periods of high concentrations. In a February 26, 1999 letter, the MPCA requested EPA concurrence on the removal of the September 26-28, 1998 CO monitoring data from AIRS for this site. MPCA prepared a report on an investigation into the validity of this data. This report concluded that this data is the result of equipment malfunction, most likely due to thunderstorm activity in the area.

The MPCA monitoring network was granted approval in November of 1998. On December 29 and 30, 1998, EPA-Region 5 Air Monitoring Section staff performed a Technical Systems Audit (TSA) on the Minnesota monitoring network. The TSA concluded that there are no deficiencies in the monitoring network. The Air Monitoring Section further documented information on the CO episode in a memorandum entitled "Minnesota Carbon Monoxide Episode," dated February 26, 1999. The MPCA investigation coupled with the TSA and additional information was used to make a decision on the validity of the abnormally high CO monitoring data. On March 2, 1999, USEPA concurred on the MPCA request to withdraw the erroneous data from AIRS. The likely malfunction identified in the State's report is uncommon but has been seen in other areas. Malfunctions of this type do not typically require replacement of the monitor, and the EPA believes that the State has acted appropriately to ensure that this monitoring site records accurate data. The EPA has reviewed the monitoring quality assurance procedures present in the Minneapolis/St. Paul area and finds that they meet the requirements of 40 CFR 51.110(k).

C. Comments From ENVIRON Corporation

i. Impact of Discontinuing I/M Program on Ambient CO Concentrations

Comment: VMT growth factors used to estimate future year mobile source CO emissions appear to exhibit anomalous behavior within individual areas, with rates of growth varying widely from one five year period to the next and from one area to the next. For example, VMT growth rates for the St. Paul Central Business district alternate between positive and negative for each successive time interval and these rates bear no apparent relationship to the rates for any other area (most of which exhibit their own fluctuating and highly unusual growth rates). Emission projections based on such anomalous growth rates are highly suspect.

EPA response: The Metropolitan Council, the Metropolitan Planning Organization for the Minneapolis/St. Paul area, provides the VMT growth factors used to estimate future VMT. These growth rates are consistent with the 2020 Regional Transportation Plan for the area. On November 25, 1997, the EPA made a determination that this plan was adequate for transportation planning purposes. This information represents the best available forecast of on-road travel, and has been developed in accordance with EPA and Department of Transportation guidance. The EPA believes that these estimates are appropriate for use in the State's maintenance projections.

Comment: CO dispersion modeling methods used by the MPCA to estimate future year CO concentrations are not consistent with EPA guidelines. The deviation from guideline procedures affected the model results in at least two ways:

1. A Gaussian dispersion model (CAL3QHC) was used to estimate peak concentrations around ten major intersections in the nonattainment area. This model only estimates the contribution of the specific intersection being modeled to the total CO concentration; the urban background concentration must be added to the model predictions. Current state-of-the-art procedures rely on an urban-wide grid model such as the Urban Airshed Model (UAM) for estimating this urban background concentration under current and future emission conditions. These models are able to account for the fact that the appropriate "background" concentration may vary from one intersection to the next based on the distribution of surrounding sources and prevailing meteorological conditions. This is the EPA guideline procedure for

preparation of CO State Implementation Plans (SIPs) and would therefore be the most appropriate procedure for use in a CO redesignation request. Despite this, the TSD did not include a UAM analysis and instead used a very limited amount of ambient data from a single monitoring site to estimate the background concentration for each intersection. No justification is given in the TSD for not following the SIP guideline procedure. Projected background levels given in the TSD were based on the anomalous regional VMT growth projections noted above. As the individual region-type growth factors are suspect (see above), the future-year background concentrations are equally suspect. For example, this projection procedure predicts that, by 2018, the highest background concentrations (by a significant margin) will be in the rural areas and the lowest will be in the Minneapolis and St. Paul CBDs. This makes no sense. Furthermore, according to the SAI report, no allowance was made for the expected growth in non-road mobile and stationary sources. This is significant as the area and non-road mobile emissions are projected to increase by 2018 as shown in Table 3-1 of the TSD and the fraction of total emissions contributed by these sources is also projected to increase as shown in Figure 3-1 of the TSD.

2. Dispersion modeling was based on a single year of meteorological data. This represents a significant departure from the EPA guidelines which require the use of at least five years of meteorological data so as to maximize the opportunity to simulate the worst-case conditions that can lead to CO exceedances. Additional years of meteorological data are readily available for the study area from EPA and from the National Climatic Data Center and should be used. It should also be noted that the TSD relies on meteorological data collected at the Minneapolis/St. Paul International Airport which is located a considerable distance from most of the modeled intersections. These data may therefore not be representative of actual conditions at the intersections.

EPA response: The Calcagni memo states that areas may assess areawide maintenance through emissions projections, demonstrating that emissions do not increase from the attainment year, or through areawide modeling such as UAM. The State utilized the emissions projection method and an intersection "hot-spot" analysis to show that emissions levels will be below the attainment level, and the CO concentrations at the selected

intersections. The Calcagni memo notes that hot-spot modeling is EPA's preferred approach for CO demonstrations. The CAL3QHC model is EPA's approved model for performing CO hot-spot analysis. The EPA believes that the States analysis is appropriate and meets redesignation and modeling criteria.

The State's TSD describes the meteorological inputs used in the first screen microscale analysis. The State assumed worst case meteorological conditions for wind speed, wind direction, stability class, and mixing height as defined by the EPA's "Guideline for Modeling Carbon Monoxide from Roadway Intersection." The State developed temperature inputs for the modeling using methodology which is consistent with EPA's "Guideline for Modeling Carbon Monoxide from Roadway Intersections" and "procedure for Emission Inventory Preparation Volume IV: Mobile Sources." As a result, the EPA believes that the State has developed the appropriate inputs for the modeling analysis.

Comment: Intersections selected for the TSD modeling analysis resulted in the selection of seven intersections (in addition to the three "required" intersections where monitoring data are available) with some unusual characteristics one would not normally associate with transportation facilities that produce peak CO concentrations. The seven selected intersections were all located well away from the congested Minneapolis and St. Paul urban centers, had free flow speeds of 45 to 55 mph on at least one artery, and had free-flow right turn lanes in every case. These seven intersections represent primarily busy highways intersecting with relatively low volume secondary roads so that the bulk of the traffic volume is accounted for by the high speed links. Based on additional information provided by the MPCA about the intersection ranking procedure, it appears that the selection process gave too much weight to the average daily traffic volume (ADT) of intersections without taking into consideration the number of traffic lanes present or the degree to which cross traffic interferes with the free flow of vehicles. This resulted in high volume, high capacity suburban intersections being favored over lower volume (but more congested) urban intersections. The level of service ranking procedure was apparently insufficient to overcome this bias. This is evident from the fact that the three modeled intersections with a known history of NAAQS exceedances (e.g., University at

Lexington Ave., Snelling at University, and Hennepin Ave. at Lake St.) received the three lowest ranks in the selection procedure. Furthermore, two of these intersections receive mid-level ranks when sorted by maximum CAL3QHC predicted concentrations instead of the bottom rankings suggested by the intersection selection procedure.

EPA response: The State selected intersections for modeling based on traffic and congestion. The State initially identified 30 intersections in the nonattainment area as potential candidates for modeling. These 30 intersections were ranked by level of congestion, and ultimately reduced to ten, the top seven ranked and the three historic CO NAAQS violating intersections, for the modeling analysis. As a result, the EPA believes that the State's selection of intersections to model for hot-spot analysis is appropriate and represents a good mix of high congestion intersections and intersections where high levels of CO have been monitored.

The method utilized by the State is consistent with EPA guidelines which require areas to model the top three intersections based on traffic volume and congestion level. None of the intersections selected for modeling by the State exceeded the CO NAAQS in the modeling and, therefore, adequately demonstrate maintenance of the CO NAAQS.

ii. Impact of Discontinuing I/M Program on O₃, PM and Regional Haze

Comment: When evaluating the impact of discontinuing the current I/M program in Minneapolis/St. Paul as is proposed in Minnesota's maintenance plan, it must be recognized that such an action, by itself, can be expected to result not only in higher CO emissions than would otherwise occur but also higher emissions of reactive organic gases (commonly referred to as VOCs) and nitrogen oxides (NO_x) that are an important precursor of ground-level ozone, particulate matter, and regional haze. Thus, irrespective of the program's continuing role in maintaining attainment of the ambient CO standard, discontinuation of the program can be expected to have an adverse impact on ozone levels and PM levels in the Twin Cities as well as regional haze in nearby Class I areas. This issue is particularly critical in light of EPA's recent promulgation of a revised NAAQS for 8-hour ozone which is significantly more stringent than the previous 1-hour standard, a new PM_{2.5} NAAQS, and a Regional Haze regulation.

EPA response: As discussed above, Section 110(l) of the Act notes that "the

Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of this Act." This includes an area's ability to meet the NAAQS for ozone and PM_{2.5}, as well as the requirements of EPA's Regional Haze regulation. A detailed discussion on why EPA believes that discontinuation of the I/M program will not interfere with attainment of the ozone NAAQS has already been discussed in today's action.

In the past, the PM₁₀ problems that have been experienced in the Minneapolis/St. Paul area have been due to emissions from large factories or groups of factories or other stationary sources, or from road dust that is blown in the air from wind or heavy duty vehicle traffic. The area has never experienced a PM₁₀ nonattainment problem caused by motor vehicle emissions. As a result, the EPA has no reason to believe that the discontinuation of the I/M program and the potential increase in NO_x or VOC emissions would interfere with the area's ability to meet the PM₁₀ NAAQS.

For fine particles, or PM_{2.5}, the EPA is currently working with States to establish monitoring networks to assess the magnitude of the problem. Without accurate monitoring data, it is impossible to identify where PM_{2.5} problems exist, assess the cause of these problems, or develop control strategies to correct the problem and bring areas to attainment. At present, there is not enough information to indicate whether there is a PM_{2.5} problem in the Minneapolis/St. Paul area or not, much less enough information to indicate whether motor vehicle emissions cause or contribute to the problem. As a result, the EPA has no reason to believe that discontinuation of the I/M program will contribute to the area's ability to meet the PM_{2.5} NAAQS.

For regional haze, the EPA has developed regulations to address the impairment of visibility in Federal Class I areas. Like PM_{2.5}, the first part of this process is focused on monitoring where visibility is impaired, and then assessing the causes of the problem. At present, a nationwide monitoring network is being established and information on the contributors to regional haze problems is not yet available. Studies that have been performed to date indicate that in the Midwest, sulfate emissions are the major contributor to haze problems, and that the problem is regional in nature. As a result, EPA expects that control strategies for regional haze in the

Midwest will focus on region wide industrial source controls, rather than local controls on the automobile. At present, therefore, the EPA has no reason to believe that discontinuation of the I/M program will contribute to the area's ability to meet the regional haze regulations.

III. EPA Final Action

The EPA approves the Minneapolis/St. Paul CO maintenance plan as a SIP revision meeting the requirements of section 175A. In addition, the EPA is approving the redesignation request for the Minneapolis/St. Paul area because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation.

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

CO SIPs are designed to satisfy the requirements of part D of the Act and to provide for attainment and maintenance of the CO NAAQS. This proposed redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the CO emission limitations and restrictions contained in the approved CO SIP. Changes to CO SIP regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of nonimplementation [section 173(b) of the Act] and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the Act.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the

Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 [64 FR 43255 (August 10, 1999)] which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 [52 FR 41685 (October 30, 1987)] on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

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

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

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The

Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

G. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal

agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 28, 1999. 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, Intergovernmental relations, Carbon monoxide.

40 CFR Part 81

Environmental protection, Air pollution control, National Parks, Wilderness areas.

Authority: 42 U.S.C. 7401-7671 *et seq.*

Dated: October 21, 1999.

David A. Ullrich,

Acting Regional Administrator, Region 5.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart Y—Minnesota

2. Section 52.1237 is amended by adding paragraph(c) to read as follows:

§ 52.1237 Control strategy: Carbon monoxide.

* * * * *

(c) Approval—On March 23, 1998, the Minnesota Pollution Control Agency submitted a request to redesignate the Minneapolis/St. Paul CO nonattainment area (consisting of portions of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington, and Wright) to attainment for CO. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include

a base year (1996 attainment year) emission inventory for CO, a demonstration of maintenance of the ozone NAAQS with projected emission inventories to the year 2009, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the CO NAAQS (which must be confirmed by the State), Minnesota will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measures includes oxygenated fuel, transportation control measures, or a vehicle inspection and maintenance program. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401-7871q.

2. In § 81.324 the table for "Minnesota-CO" is amended by revising the entry for the Minneapolis/St. Paul area for carbon monoxide to read as follows:

§ 81.324 Minnesota

* * * * *

MINNESOTA-CO

Designated Areas	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Minneapolis-Saint Paul Area:				
Anoka	November 29, 1999.	Attainment.		
County .....	.....do	Attainment.		
Carver County (part)				
Carver, Chanhassen, Chaska, Hamburg, Norwood, Victoria, Waconia, Watertown, Young America, Chaska Township, Laketown Township, Waconia Township, Watertown Township, Young America Township.	.....do	Attainment.		
Dakota County (part)				
Apple Valley, Burnsville, Eagan, Farmington, Hastings, Inver Grove Heights, Lakeville, Lilydale, Mendota, Mendota Heights, Rosemount, South St. Paul, Sunfish Lake, West St. Paul.	.....do	Attainment.		
Hennepin .....	.....do	Attainment.		
County .....	.....do	Attainment.		
Ramsey County				
Scott County (part)	.....do	Attainment.		
Belle Plaine, Elko, New Market, New Prague, Prior Lake, Savage, Shakopee, Credit River Township, Jackson Township, Louisville Township, New Market Township, Spring Lake Township.	.....do	Attainment.		

MINNESOTA-CO—Continued

Designated Areas	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Washington County (part) All cities and townships except Denmark Township				
Wright County (part) Albertville, Annandale, Buffalo, Clearwater, Cokato, Delano, Hanover, Monticello, Montrose, Rockford, St. Michael, South Haven, Waverly, Dayton (Wright Co. part), Buffalo Township, Chatham Township, Clearwater Township, Cokato Township, Corrinna Township, Franklin Township, Maple Lake Township, Franklin Township, Marysville Township, Monticello Township, Ostego Township, Rockford Township, Silver Creek Township, Southside Township				
*	*	*	*	*

¹ This date is November 15, 1990, unless otherwise noted.

[FR Doc. 99-28310 Filed 10-28-99; 8:45 am]
BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Office of Motor Carrier Safety

49 CFR Chapter III

[Docket No. OMCS-99-6386]

RIN 2125-AE70

Motor Carrier Safety Regulations

AGENCY: Office of Motor Carrier Safety (OMCS), DOT.

ACTION: Final rule.

SUMMARY: This document amends the heading for chapter III concerning motor carrier safety regulations. On October 9, 1999, the Secretary of Transportation (Secretary) rescinded the authority previously delegated to the Federal Highway Administrator to perform motor carrier functions and operations, and re delegated that authority to the Director, Office of Motor Carrier Safety, a new office within the Department of Transportation (Department). The title of chapter III is therefore being changed from "Federal Highway Administration, Department of Transportation" to "Office of Motor Carrier Safety, Department of Transportation" to reflect the organizational changes.

EFFECTIVE DATE: This final rule is effective October 29, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Office of Motor Carrier Safety, HMCS-10, (202) 366-4009; or Mr. Charles Medalen, Office of the Chief Counsel, HCC-20, (202) 366-1354, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the **Federal Register's** home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

Section 338 of the FY 2000 Department of Transportation and Related Agencies Appropriations Act [Public Law 106-69, 113 Stat. 986, at 1022 (October 9, 1999)] prohibits the expenditure of any funds appropriated by that Act "to carry out the functions and operations of the Office of Motor Carriers within the Federal Highway Administration" (FHWA). Section 338 further provides that, if the authority of the Secretary on which the functions and operations of the Office of Motor Carriers are based is re delegated outside the FHWA, the funds available to that office under the Act may be transferred and expended to support its functions and operations.

The Secretary has rescinded the authority previously delegated to the FHWA to carry out motor carrier functions and operations. This authority has been re delegated to the Director, Office of Motor Carrier Safety, a new office within the Department [64 FR 56270, October 19, 1999].

The new OMCS includes the following headquarters offices of the FHWA's former Office of Motor Carrier and Highway Safety (OMCHS): the Office of Motor Carrier Research and

Standards, the Office of Data Analysis and Information Systems, the Office of Motor Carrier Enforcement, the Office of Policy and Program Management, the Office of National and International Safety Programs, the Office of Technology Evaluation and Deployment, and the Office of Program Evaluation. However, the Office of Highway Safety Infrastructure remains part of the FHWA. In addition, the motor carrier functions of the FHWA's Resource Centers and Division (i.e., State) Offices have been transferred to OMCS Resource Centers and OMCS Division Offices, respectively. Rulemaking, enforcement, and other activities of the OMCHS while part of the FHWA will be continued by the new OMCS. The re delegation will cause no changes in the motor carrier functions and operations of the offices or resource centers listed above. For the time being, all phone numbers and addresses are unchanged.

The heading for 49 CFR chapter III is changed to read "Chapter III—Office of Motor Carrier Safety, Department of Transportation."

This rule is being published as a final rule and made effective on the date of publication in the **Federal Register**. As the rule relates to Departmental organization, procedure, and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b). This action makes no substantive changes to the motor carrier safety regulations. It simply provides a chapter heading change to 49 CFR chapter III. Therefore, prior notice and opportunity to comment are unnecessary and good cause exists to dispense with the 30-day delay in effective date requirement so that the Office of Motor Carrier Safety may resume its rulemaking functions.

In consideration of the foregoing and under the authority of 49 U.S.C. 301 and