

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34), of Commandant Instruction M16475.ID, this rule, which establishes security zones, is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. Add new § 165.T11-049 to read as follows:

§ 165.T11-049 Security Zones: Areas surrounding the Hoover Dam, the Davis Dam, and the Glen Canyon Dam on the Colorado River.

(a) *Location.* Following are the locations of the three security zones created by this section: (1) *Hoover Dam security zone.* This security zone will encompass all waters and shoreline areas within the boundaries designated by these GPS coordinates: A point at N36.02209 W-114.75813 (Point A), proceeding east to N36.02209 W-114.73344 (Point B), proceeding north to N36.02934 W-114.73343 (Point C), proceeding east to N36.02857 W-114.71762 (Point D), proceeding south to N36.01764 W-114.71764 (Point E), N36.01764 W-114.72212 (Point F), proceeding south to N36.01033 W-114.72217 (Point G), proceeding west to N36.01033 W-114.72666 (Point H), proceeding south to N35.98873 W-114.72660 (Point I), proceeding west to N35.98872 W-114.74166 (Point J) proceeding south along the east bank of the Colorado River to N35.98557 W-114.74298 (Point K), proceeding west to N35.985 W-114.751 (Point L), proceeding north to N36.006 W-114.750 (Point M), proceeding west to N36.00034 W-114.75806 (Point N), proceeding north to Point A.

(2) *Davis Dam security zone.* This security zone will encompass all waters and shoreline areas within the boundaries designated by these GPS coordinates: A point at N35.20448 W-114.57940 (Point A), proceeding east to N35.20417 W-114.56109 (Point B), proceeding south to N35.19692 W-114.56108 (Point C), proceeding east to N35.19693 W-114.55666 (Point D), proceeding south to N35.18605 W-114.55664 (Point E), proceeding west to N35.18604 W-114.56913 (Point F), proceeding south to N35.18278 W-114.56899 (Point G), proceeding west to N35.18278 W-114.58024 (Point H), and then north to Point A.

(3) *Glen Canyon Dam security zone:* This security zone will encompass all waters and shoreline areas within the boundaries designated by these GPS coordinates: A point at N36.56510 W-111.29245 (Point A), proceeding east to N36.56510 W-111.28843 (Point B), proceeding southeast to N36.56294 W-

111.28710 (Point C), proceeding southeasterly to N36.55899 W-111.28868 (Point D), proceeding west to N36.55899 W-111.29171 (Point E), proceeding northwesterly to N36.56294 W-111.29247 (Point F), the proceeding northwesterly to point A.

(b) *Effective dates.* These security zones will be in effect from 12 midnight (PST) on November 5, 2001 to 12 midnight (PDT) on June 21, 2002. If the need for these security zones ends before the scheduled termination time and date, the Captain of the Port will cease enforcement of the security zones and will also announce that fact via Broadcast Notice to Mariners and Local Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, no person or vessel may enter or remain in the security zone established by this temporary regulation, unless authorized by the Captain of the Port, or his designated representative. All other general regulations of § 165.33 of this part apply in the security zone established by this temporary regulation. Persons requesting permission to transit through the security zones must request authorization to do so from the Captain of the Port, who may be contacted at (619) 683-6495 or the United States Department of Interior, Bureau of Reclamation, who may be contacted at (520) 645-0450 for the Glen Canyon Dam, and (702) 293-8302 for the Davis and Hoover Dams.

Dated: November 4, 2001.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MA084-7214a; A-1-FRL-7143-7]

Approval and Promulgation of Air Quality Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Commonwealth of Massachusetts; Carbon Monoxide Redesignation Request, Maintenance Plan, and Emissions Inventory for the Cities of Lowell, Springfield, Waltham, and Worcester

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts containing a redesignation request, maintenance plan, and emissions inventory for the carbon monoxide (CO) nonattainment areas of Lowell, Springfield, Waltham, and Worcester. Under the Clean Air Act as amended in 1990 (the CAA), air quality designations can be revised if sufficient data is available to warrant such revisions and the redesignation request meets all of the requirements of section 107(d)(E)(3) of the CAA. EPA is approving the Massachusetts redesignation request and maintenance plan because they meet the applicable requirements and will ensure that the four cities remain in attainment. The approved maintenance plan will become a federally enforceable part of the Massachusetts SIP. In this action, EPA is also approving the Massachusetts 1996 baseline emission inventory for CO.

DATES: This direct final rule will be effective April 22, 2002, unless EPA receives relevant adverse comments by March 21, 2002. If we receive relevant adverse comments, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England, One Congress Street, Suite 1100, Boston, MA 02114-2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M-1500, 401 M Street, (Mail Code 6102), SW., Washington, DC; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Butensky, Environmental Planner, Air Quality Planning Unit of the Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, New England office, One Congress Street, Boston, MA 02114-2023, (617) 918-1665 or at butensky.jeff@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of SIP Revisions

- A. Why is EPA taking this action?
- B. Why are we concerned about carbon monoxide?
- C. How did EPA establish the cities of Lowell, Springfield, Waltham, and Worcester as nonattainment for carbon monoxide?
- D. What are the related Clean Air Act requirements, and how does Massachusetts meet them?

A. Why Is EPA Taking This Action?

On May 25, 2001, the Commonwealth of Massachusetts submitted a formal CO redesignation request to designate the cities of Lowell, Springfield, Waltham, and Worcester as attainment for CO. This submittal also included a maintenance plan to assure that these areas will maintain attainment and a 1996 emissions inventory for CO. On August 14, 2001, EPA New England determined that the information received from Massachusetts Department of Environmental Protection (MADEP) constitutes a complete redesignation request under the general completeness criteria of 40 CFR part 51, appendix V, sections 2.1 and 2.2.

EPA is approving the request to redesignate, maintenance plan, and emission inventory in today's action. Please note that if EPA receives relevant 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.

B. Why Are We Concerned About Carbon Monoxide?

Inhaling high levels of CO inhibits the blood's capacity to carry oxygen to organs and tissues. Persons with heart disease, children, and individuals with respiratory diseases are particularly sensitive to CO. Effects of CO on healthy adults include impaired exercise capacity, visual perception, manual dexterity, learning functions, and ability to perform complex tasks. As a result of these potential health impacts, EPA developed a primary National Ambient Air Quality Standard (NAAQS) for CO which is the level at which CO concentrations in the ambient air become unhealthy.¹ In response to the NAAQS and pursuant to CAA requirements, states have developed

¹EPA defines the CO NAAQS as nine parts per million averaged over an eight-hour period, and this threshold cannot be exceeded more than once a year or an area would be violating the NAAQS.

programs to reduce CO to levels that are below the NAAQS.

C. How Did EPA Establish the Cities of Lowell, Springfield, Waltham, and Worcester as Nonattainment for Carbon Monoxide?

The cities of Lowell, Springfield, Waltham, and Worcester were designated nonattainment for CO on March 3, 1978 (43 FR 9003). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law No. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. Pursuant to section 107(d)(1)(C) of the CAA, the cities of Lowell, Springfield, Waltham, and Worcester retained their designations of nonattainment for CO by operation of law. The cities of Lowell, Springfield, Waltham, and Worcester were designated nonattainment on November 6, 1991 (56 FR 56694). Simultaneously, EPA designated these areas as "not classified" since ambient monitoring data showed that these areas were attaining the CO NAAQS.²

Since these areas were not classified under the CAA amendments of 1990, section 172 of the CAA sets forth the applicable requirements for these nonattainment areas. The 1990 CAA requires such areas to achieve the standard by November 15, 1995, and Massachusetts fulfilled this requirement in the cities of Lowell, Springfield, Waltham, and Worcester.

On May 25, 2001, Massachusetts sent EPA a CO redesignation request for these cities, including a maintenance plan and emissions inventory. EPA is approving all of these components today, and we discuss them in detail in this document. Massachusetts submitted evidence that the MADEP held public hearings on November 15 and 16, 2000 for the CO redesignation request and related components.

D. What Are the Related Clean Air Act Requirements, and How Does Massachusetts Meet Them?

Section 107(d)(3)(E) of the 1990 Clean Air Act Amendments provides five specific requirements that an area must meet to be redesignated from nonattainment to attainment.

1. The area must have attained the applicable NAAQS;
2. The area must have a fully approved SIP under section 110(k) of CAA;
3. The air quality improvement must be permanent and enforceable;

²Waltham did not have a monitor in place in 1991. As explained later in this notice, EPA is relying on a conservative surrogate CO monitor as part of our basis for concluding that Waltham is attaining the CO NAAQS.

4. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA;

5. The area must meet all applicable requirements under section 110 and Part D of the CAA.

The Massachusetts redesignation request meets the five requirements of section 107(d)(3)(E) as explained below.

1. Attainment of the CO NAAQS

Massachusetts has CO air monitoring data showing that each area has met the CO NAAQS. To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the NAAQS over at least two consecutive years. The ambient air CO monitoring data relied upon by Massachusetts in its redesignation request shows no violations of the CO NAAQS since 1984 in Lowell and Worcester, and since 1987 in Springfield.

In the city of Waltham, the monitoring station for CO ceased operations in 1978. EPA believes, however, that there is ample evidence supporting MADEP's conclusion that CO levels in Waltham are well below the NAAQS. That belief is based on CO monitoring data just outside of Waltham, in the Kenmore Square area of Boston.³ The Kenmore Square area is more developed and contains higher traffic volumes than the Waltham area, and has not recorded a violation of the CO NAAQS since 1983. However, the design value is used to gauge attainment. According to EPA guidance,⁴ the design value is defined by observing two consecutive years of carbon monoxide data and extracting the highest second highest value. The current design value for the CO monitor in Kenmore Square based on 2000 and 2001 is 2.3 parts per million, well below the CO NAAQS. In addition, EPA did a detailed comparison of monitoring data from the Kenmore Square and Waltham monitors during the period of time they both were in operation. EPA compared literally thousands of matched readings for CO measurements in both locations. That analysis provides convincing evidence that Waltham consistently monitored CO values lower than Kenmore Square. That analysis is available as part of the Technical Support Document for this action.

Additionally, MADEP submitted an extensive CO modeling analysis modeling CO levels for a specific area in

Waltham in 1998.⁵ The analysis found that under the worst case scenario (e.g. congested traffic in winter), the CO NAAQS would not be exceeded in Waltham.

Massachusetts also has committed to continue to monitor CO in Lowell, Springfield and Worcester, and as required in the approved maintenance plan for the Boston CO area, MADEP continues to monitor in Kenmore Square in Boston, which is nearby the city of Waltham. When Massachusetts develops a second 10-year maintenance plan for the Boston CO area, EPA will ensure that MADEP commits to monitor in an area that continues to be representative of CO air quality in Waltham for the duration of the maintenance plan period for Waltham.

2. Fully Approved SIP

EPA has approved the Massachusetts CO SIP as meeting all the requirements of Section 110 of the Act, including the requirement in Section 110(a)(2)(I) to meet all the applicable requirements of Part D (relating to nonattainment), which were due prior to the date of Massachusetts' redesignation request. EPA approved the Massachusetts 1982 CO SIP on November 9, 1983 (48 FR 51480). The Federal Motor Vehicle Control Program and the implementation of an Inspection and Maintenance program for vehicles were the measures that brought the CO levels into attainment in the cities of Lowell, Springfield, Waltham, and Worcester.

Before EPA may redesignate the Massachusetts areas to attainment, the SIP must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as not classifiable. Therefore, to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176. Additionally, the 1990 CAA requires CO nonattainment areas such as the cities of Lowell, Springfield, Waltham, and Worcester to achieve other specific requirements. We discuss each of these requirements in greater detail below.

Reasonably Available Control Measures: The General Preamble for the implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498 (April 16, 1992)) explains that section 172(c)(1) requires the plans for all nonattainment areas to provide for

the implementation of all Reasonably Available Control Measures (RACM) as expeditiously as practicable. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in the area as components of the area's attainment demonstration. The 1982 CO SIP evaluated many programs as potential RACM and identified the inspection and maintenance program as a CO RACM measure. Because each city has reached attainment, no additional measures are needed to provide for attainment.

Emission Inventory: Under the Clean Air Act as amended, states have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas toward attainment. Section 172(c)(3) of the CAA requires that nonattainment plan provisions include a comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Massachusetts included the requisite inventory in the May 25, 2001 submittal and is using 1996 as the base year for the inventory. MADEP included stationary point sources, stationary area sources, on-road mobile sources, and non-road mobile sources of CO in the inventory. The inventory is designed to address actual CO emissions for the area during the peak CO season, which is during the winter months. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498 (April 16, 1992)). In today's action, EPA is approving the Massachusetts statewide CO emissions inventory which includes the emission inventories for the cities of Lowell, Springfield, Waltham, and Worcester.

New Source Review: In an October 14, 1994 memorandum from Mary D. Nichols entitled "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," EPA established a new policy under which the Agency may redesignate nonattainment areas to attainment notwithstanding the lack of a fully-approved part D NSR program, provided the SIP does not rely on the program for maintenance. Consistent with this policy, EPA is not requiring as a prerequisite to redesignation that the Waltham, Lowell, Worcester, and Springfield CO nonattainment areas have a fully approved part D NSR program that meets the CAA. In making

³ The Kenmore Square Monitor is located approximately 10 miles east of the former monitoring site in Waltham.

⁴ Memo from William G. Laxton, "Ozone and Carbon Monoxide Design Value Calculations," June 18, 1990.

⁵ The CO modeling analysis was conducted in 1998 by Vanasse Hagen Brustlin, Inc. for MADEP.

this decision, EPA found that Massachusetts has not relied on its current SIP approved NSR program for CO sources to maintain attainment.

Although not required for redesignation, on October 27, 2000, EPA published a direct final rule approving revisions that make the Massachusetts NSR SIP consistent with the CAA.⁶ In addition, the federal Prevention of Significant Deterioration (PSD) program under 40 CFR 52.21 will apply in the Lowell, Springfield, Waltham, and Worcester CO areas once redesignated to prevent emission increases from new major new sources or major modifications in these areas from causing or contributing to a violation of the NAAQS.

Conformity: Section 176(c) of the CAA requires states to submit revisions to their SIPs that include criteria and procedures to ensure that federal actions conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as all other federal actions ("general conformity"). Congress provided for the state revisions to be submitted one year after the date of promulgation of final EPA conformity regulations. EPA promulgated revised final transportation conformity regulations on August 15, 1997 (62 FR 43780) and final general conformity regulations on November 30, 1993 (58 FR 63214).

These conformity rules require that the states adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Section 51.390 of the transportation conformity rule (40 CFR 51.390) requires Massachusetts to submit a SIP revision by August 15, 1998 containing transportation conformity criteria and procedures consistent with those established in the federal rule. Similarly, section 51.851 of the general conformity rule requires Massachusetts to submit a SIP revision by December 1, 1994 containing general conformity criteria and procedures consistent with those established in the federal rule.

Massachusetts has a state transportation conformity regulation in place that became effective on December 30, 1994.⁷ This rule, however, was not

approved into the SIP for two reasons: (1) To allow for flexibility in interpreting the state rule; and (2) to allow the state to take advantage of any flexibility created by changes to the federal transportation conformity rule.

Although Massachusetts does not yet have a transportation conformity rule EPA has approved, the Agency may nevertheless approve this redesignation request. EPA interprets the requirement of a fully approved SIP in section 107(d)(3)(E)(v) to mean that, for a redesignation request to be approved, the state must have met all requirements that become applicable to the subject area before or at the time of the submission of the redesignation request. A delay in approving state rules does not relieve an area from the obligation to implement conformity requirements. Areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under all circumstances, therefore, it is reasonable to view these requirements as not being applicable requirements for purposes of evaluating a redesignation request. Furthermore, Massachusetts has continually fulfilled all of the requirements of the state and federal transportation conformity rules and the general conformity rule. Therefore, it is not necessary that the state have its transportation conformity rule approved in the SIP before redesignation to insure that Massachusetts meets the substance of the conformity requirements.

On January 30, 1996, EPA modified its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) concerning the applicable requirements for purposes of reviewing a CO redesignation request (61 FR 2918 (January 30, 1996)). Under this new policy, for the reasons discussed, EPA believes that the CO redesignation request may be approved notwithstanding the lack of approved state transportation conformity and general conformity rules.

3. Improvement in Air Quality Due to Permanent and Enforceable Measures

In 1983 EPA fully approved the Massachusetts 1982 CO SIP pertaining to the cities of Lowell, Springfield, Waltham, and Worcester as meeting the CO SIP requirements in effect under the CAA at that time. 48 FR 57480 (November 9, 1983). EPA approved the Massachusetts CO SIP under the CAA as amended through 1977. Emission reductions achieved through the

implementation of control measures contained in that SIP are enforceable. Massachusetts has data from its monitors in the cities of Lowell, Springfield, and Worcester indicating that the state had measured no exceedances or violations of the CO standard since 1987. The attainment in these areas so soon after Massachusetts started to implement its 1982 CO SIP indicated that the air quality improvements are due to the permanent and enforceable measures contained in the 1982 CO SIP. In addition, CO levels at the Kenmore site, MADEP's surrogate for Waltham, declined over time, roughly parallel to the declines seen elsewhere. EPA finds that the combination of certain existing EPA approved SIP and federal measures contributes to the permanence and enforceability of reductions in ambient CO levels that have allowed the area to attain the NAAQS.

4. Fully Approved Maintenance Plan Under Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Agency approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period.⁸ To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. In this notice, EPA is approving the maintenance plan for the cities of Lowell, Springfield, Waltham, and Worcester because EPA finds that the Massachusetts submittal meets the requirements of section 175A.

a. Attainment Emission Inventory

MADEP submitted a comprehensive inventory of CO emissions. The inventory includes emissions from area, stationary, and mobile sources using 1996 as the base year for calculations. The 1996 inventory is considered representative of attainment conditions because EPA has concluded that none of the areas violated during 1996. MADEP prepared the inventory in accordance with EPA guidance and Massachusetts established statewide CO emissions for

⁶ This direct final rule became effective on December 26, 2000.

⁷ State rule 310 CMR 60.00 (Section 60.03), "Conformity to the State Implementation Plan of

Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act."

⁸ On August 23, 2001 the MADEP sent a letter to EPA New England confirming that the State is aware of this requirement.

1996 as well as forecasts to the year 2012. These estimates were derived from MADEP's 1996 emissions inventory. MADEP's submittals contains the following information:

COMPARISON OF 1996 AND 2012 CARBON MONOXIDE EMISSION IN MASSACHUSETTS

[Tons per winter day]

	1996	2012
Stationary Point	40.0	44.3
Stationary Area	696.6	708.9
On-Road Mobile	2,256.7	1,428.1
Off-Road Mobile	633.6	813.0
Total	3,626.9	2,994.3

In addition, Massachusetts has submitted a detailed inventory that allocated CO emissions to each of the cities of Lowell, Springfield, Waltham, and Worcester based on their population. This is summarized below.

CARBON MONOXIDE EMISSION SUMMARY, 1996 AND 2012 EMISSIONS

[Tons per winter day]

	Waltham		Worcester		Lowell		Springfield	
	1996	2012	1996	2012	1996	2012	1996	2012
Stationary Point	6	6	20	20	11	11	18	18
Stationary Area	0	0	1	1	1	1	1	1
On-Road Mobile	21	5	64	17	37	10	57	15
Off-Road Mobile	6	6	17	19	10	11	15	16
Total	33	17	102	57	59	33	91	50

In today's action, EPA is approving the 1996 emission inventory for Massachusetts submitted on May 25, 2001, as part of the CO redesignation request for the cities of Lowell, Springfield, Waltham, and Worcester.

b. Demonstration of Maintenance-Projected Inventories

MADEP projected total CO emissions from a 1996 base year out to 2012. These projected inventories were prepared in accordance with EPA guidance, and as shown in the table immediately above, EPA and MADEP anticipate that the areas will have CO emissions levels that will keep ambient air quality levels below the NAAQS.

Under the EPA guidance titled "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment areas," dated October 6, 1995, areas with monitored data less 85% of the NAAQS for the two-year period leading up to redesignation qualify for the limited maintenance plan option. EPA believes that it is justifiable and appropriate to apply a reduced set of maintenance plan requirements on areas with data below 85% of the NAAQS, thereby allowing areas to implement the limited plan option. This includes not requiring the area to forecast future emissions or to develop transportation conformity budgets for use in conformity determinations in future Transportation Improvement Programs. EPA has concluded that emission budgets should not be required in limited maintenance plan areas because

it is unreasonable to assume that these areas will experience so much growth in the 20 year maintenance period so that an exceedance or violation of the CO NAAQS would result. In other words, EPA believes that emissions do not need to be capped for the area to maintain CO levels below the NAAQS. EPA believes that measures currently being implemented should provide adequate assurance of maintenance in these areas and keep CO concentrations well below the NAAQS. Furthermore, in the case of these areas, MADEP has projected CO emissions out to 2012, and they are well below the levels of the 1996 inventory, which is when these areas were in attainment. Therefore, it is reasonable to assume EPA will not need to cap CO emissions in these areas.

c. Verification of Continued Attainment

Continued attainment of the CO NAAQS depends, in part, on the Commonwealth's efforts toward tracking indicators of continued attainment during the maintenance period. Therefore, Massachusetts will continue to monitor CO levels as described above.

d. Contingency Plan

The level of CO emissions in the cities of Lowell, Springfield, Waltham, and Worcester will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite Massachusetts' best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate

the NAAQS, although highly unlikely. Section 175A(d) of the CAA requires that the contingency provisions include a requirement that the state implement all measures contained in the SIP prior to redesignation, and Massachusetts has fulfilled this requirement. In addition, Massachusetts provided contingency measures in the event of a future CO air quality problem.

Massachusetts has developed a three stage contingency plan to be implemented if an exceedance of the CO NAAQS occurs in any of the four nonattainment areas.⁹ The first stage is to investigate the traffic and other local conditions near the exceedance and to develop a local remedy. If this is found to be infeasible or ineffective, Massachusetts will implement the second stage. Stage two consists of the acknowledgment of the enhanced inspection and maintenance program implemented in October 1998.¹⁰ However, stage two will only be applicable in 2001.

After the year 2001, the third stage contingency measure will be acknowledged, which is the California

⁹ Since there is no monitor in Waltham, EPA will consider contingency measures triggered for this area if an exceedance is measured at the Kenmore Square monitor, the monitor that MADEP considers to be representative of Waltham air quality.

¹⁰ Massachusetts did not take credit for enhanced I/M in achieving attainment but has taken credit for the program in future CO projections. Therefore, this program will be used at a contingency measure only through calendar year 2001.

low emission vehicle program¹¹ (CALEV 1) implemented for model year 1994. In addition, CALEV 2 will achieve further reductions beginning in 2004. This contingency measure will become effective if stage one is ineffective and if it is after 2001.

Although Massachusetts is implementing these programs as measures to achieve the NAAQS for ground level ozone, they are not required in nonclassified CO nonattainment areas under the CAA and can therefore be used as contingency measures. In order to be adequate, the maintenance plan should include at least one contingency measure that will go into effect with a triggering event. Massachusetts is relying on contingency measures that will go into effect under MADEP's approved ozone SIP. Massachusetts has not taken credit for any of these programs under the CO SIP. Therefore, EPA is prepared to accept these programs as contingency measures under the CO SIP, even though MADEP has already implemented them for purposes of ozone control.

e. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the state must implement two ten year maintenance plans, and Massachusetts must submit to EPA eight years from today an acknowledgment that its maintenance plan will remain in effect for a second ten year period. On August 23, 2001, MADEP sent a letter to EPA acknowledging this requirement.

5. Meeting Applicable Requirements of Section 110 and Part D

In this notice, EPA has set forth the basis for its conclusion that Massachusetts has a fully approved SIP that meets the applicable requirements of Section 110 and Part D of the CAA.

II. Final Action

EPA is approving this SIP revision consisting of a CO redesignation to attainment, maintenance plan, and emissions inventory for the cities of Lowell, Springfield, Waltham, and Worcester, and incorporating it into the Massachusetts SIP. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document

that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective April 22, 2002 without further notice unless the Agency receives relevant adverse comments by March 21, 2002. If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. EPA will then address all public comments received in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If EPA receives no such comments, the public is advised that this rule will be effective on April 22, 2002 and the Agency will take no further action on the proposed rule.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." 66 FR 28355 (May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255,

August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 22, 2002. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not

¹¹ CALEV approval was published on February 1, 1995, at 60 FR 6027. Massachusetts did not credit for CALEV in future CO projections. Therefore, this program will be used as a contingency measure after calendar year 2001.

be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: January 29, 2002.

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

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

PART 52—[AMENDED]

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

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

Subpart W—Massachusetts

2. Section 52.1127 is amended by revising the table to read as follows:

§ 52.1127 Attainment dates for national standards.

* * * * *

Air quality control region	Pollutant					
	SO ₂		PM ₁₀	NO ₂	CO	O ₃
	Primary	Sec- ondary				
AQCR 42: Hartford-New Haven-Springfield Interstate Area (See 40 CFR 81.26).	(a)	(b)	(a)	(a)	(a)	(d)
AQCR 117: Berkshire Intrastate Area (See 40 CFR 81.141)	(a)	(b)	(a)	(a)	(a)	(d)
AQCR 118: Central Mass Intrastate Area (See 40 CFR 81.142)	(a)	(b)	(a)	(a)	(a)	(c)
AQCR 119: Metropolitan Boston Intrastate Area (See 40 CFR 81.19)	(a)	(b)	(a)	(a)	(a)	(c)
AQCR 120: Metropolitan Providence Interstate Area (See 40 CFR 81.31).	(a)	(b)	(a)	(a)	(a)	(c)
AQCR 121: Merrimack Valley-Southern NH Interstate Area (See 40 CFR 81.81).	(a)	(b)	(a)	(a)	(a)	(c)

- a. Air quality levels presently below primary standards or area is unclassifiable.
- b. Air quality levels presently below secondary standards or area is unclassifiable.
- c. November 15, 1999.
- d. December 31, 2003.

3. Section 52.1132 is amended by redesignating paragraph (i) as paragraph (b) and adding paragraphs (c) and (d) to read as follows:

§ 52.1132 Control strategy: Carbon monoxide.

* * * * *

(c) *Approval*—On May 25, 2001, the Massachusetts Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan for the 1996 base year emission inventory. The inventory was submitted by the State of Massachusetts to satisfy Federal requirements under section 172(c) of the Clean Air Act as amended in 1990, as a revision to the carbon monoxide State Implementation Plan.

(d) *Approval*—On May 25, 2001, the Massachusetts Department of Environmental Protection (MADEP)

submitted a request to redesignate the cities of Lowell, Springfield, Waltham, and Worcester from nonattainment area to attainment for carbon monoxide. 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 1996 emission inventory for carbon monoxide, a demonstration of maintenance of the carbon monoxide NAAQS with projected emission inventories to the year 2012 for carbon monoxide, 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 an area records an exceedance or violation of the carbon monoxide NAAQS (which must be confirmed by the MADEP), Massachusetts will implement one or

more appropriate contingency measure(s) which are contained in the contingency plan. The redesignation request and maintenance plan meet the redesignation requirements in sections 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, *et seq.*

Subpart C—Section 107 Attainment Status Designations

2. In § 81.322 by revising the table for “Massachusetts—Carbon Monoxide” to read as follows:

§ 81.322 Massachusetts.

* * * * *

MASSACHUSETTS—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Boston area:				
Middlesex County (part) Cities of Cambridge, Everett, Malden, Medford, and Somerville	4/1/96	Attainment		
Norfolk County (part) Quincy City	4/1/96	Attainment		
Suffolk County (part) Cities of Boston, Chelsea, and Revere	4/1/96	Attainment		
Lowell area:				

MASSACHUSETTS—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Middlesex County (part) Lowell City	4/22/02	Attainment		
Springfield area:				
Hampden County (part) Springfield City	4/22/02	Attainment		
Waltham area:				
Middlesex County (part) Waltham City	4/22/02	Attainment		
Worcester area:				
Worcester County (part) Worcester City	4/22/02	Attainment		
AQCR 042 Hartford-New Haven-Springfield—All portions except Springfield City		Unclassifiable/Attainment		
AQCR 117 Berkshire Interstate		Unclassifiable/Attainment		
AQCR 118 Central Massachusetts Interstate—All portions except Worcester City		Unclassifiable/Attainment		
AQCR 119 Metropolitan Boston Intrastate—All portions except cities of Boston, Cambridge, Chelsea, Everett, Malden, Medford, Quincy, Revere, and Waltham.		Unclassifiable/Attainment		
AQCR 120 Metropolitan Providence Interstate		Unclassifiable/Attainment		
AQCR 121 Merrimack Valley-S New Hampshire—All portions except Lowell City		Unclassifiable/Attainment		

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

* * * * *
 [FR Doc. 02-3758 Filed 2-15-02; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300 [FRL-7144-6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of a portion of the Joslyn Manufacturing and Supply Superfund Site from the National Priorities List.

SUMMARY: The United States Environmental Protection Agency (EPA), Region V is publishing a direct final notice of deletion of a portion of the Joslyn Manufacturing and Supply, Superfund Site (Site), located in Brooklyn Center, Minnesota, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being

published by EPA with the concurrence of the State of Minnesota, through the Minnesota Pollution Control Agency, because EPA has determined that all appropriate response actions under CERCLA have been completed for a portion of the the Site and, therefore, further remedial action pursuant to CERCLA on the portion of the Site is not necessary at this time.

DATES: This direct final notice of partial deletion will be effective April 22, 2002 unless EPA receives adverse comments by March 21, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final notice of deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed, telephoned, or e-mailed to: Gladys Beard, State NPL Deletion Process Manager at (312) 886-7253, *Beard.Gladys@EPA.Gov*, EPA Region V, 77 W. Jackson Boulevard, Mail Code SR-6J, Chicago, IL 60604, or at 1-800-621-8431.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: EPA Region V Library, 77 W. Jackson Boulevard, Chicago, IL 60604, (312) 353-5821, Monday through Friday 8:00 a.m. to 4:00 p.m.; Minnesota Pollution Control Agency 520 Lafayette, Monday through Friday, 8:00 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Gladys Beard, State NPL Deletion Process Manager at (312) 886-7253, *Beard.Gladys@EPA.Gov* or 1-800-621-8431, EPA Region V, 77 W. Jackson Boulevard, Mail Code SR-6J, Chicago, IL 60604.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion
- V. Deletion Action

I. Introduction

EPA Region V is publishing this direct final notice of deletion of a portion of the Joslyn Manufacturing and Supply, Superfund Site from the NPL.

EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective April 22, 2002, unless EPA receives adverse comments by March 21, 2002 on this document. If adverse comments are received within