

(1) A notice under PCT Rule 26bis.1(a) adding the priority claim, if the priority claim in respect of the earlier application is not contained in the international application;

(2) The fee set forth in § 1.17(t); and

(3) A statement that the delay in filing the international application within the priority period was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(c) If the applicant makes a request for early publication under PCT Article 21(2)(b), any requirement under paragraph (b) of this section filed after the technical preparations for international publication have been completed by the International Bureau shall be considered as not having been submitted in time.

(d) Restoration of a right of priority to a prior application by the United States Receiving Office under this section, or by any other Receiving Office under the provisions of PCT Rule 26bis.3, will not entitle applicants to a right of priority in any application which has entered the national stage under 35 U.S.C. 371, or in any application filed under 35 U.S.C. 111(a) which claims benefit under 35 U.S.C. 120 and 365(c) to an international application in which the right to priority has been restored.

■ 7. Section 1.465 is amended by revising paragraph (b) to read as follows:

**§ 1.465 Timing of application processing based on the priority date.**

\* \* \* \* \*

(b) When a claimed priority date is corrected under PCT Rule 26bis.1(a), or a priority claim is added under PCT Rule 26bis.1(a), withdrawn under PCT Rule 90bis.3, or considered not to have been made under PCT Rule 26bis.2, the priority date for the purposes of computing any non-expired time limits will be the filing date of the earliest remaining priority claim under PCT Article 8 of the international application, or if none, the international filing date.

\* \* \* \* \*

■ 8. Section 1.497 is amended by revising paragraph (f)(1) to read as follows:

**§ 1.497 Oath or declaration under 35 U.S.C. 371(c)(4).**

\* \* \* \* \*

(f) \* \* \*

(1) There was a change in the international filing date pursuant to PCT Rule 20.5(c) after the declaration was executed; or

\* \* \* \* \*

Dated: August 31, 2007.

**Jon W. Dudas,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. E7-17711 Filed 9-7-07; 8:45 am]

**BILLING CODE 3510-16-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R01-OAR-2007-0497; A-1-FRL-8463-6]**

**Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Revised Carbon Monoxide Maintenance Plan for Nashua**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This SIP submittal contains revisions to the carbon monoxide (CO) maintenance plan for Nashua, New Hampshire. Specifically, New Hampshire has revised the contingency plan portion of the original maintenance plan. The intended effect of this action is to approve this revision to the Nashua CO maintenance plan. This action is being taken in accordance with the Clean Air Act.

**DATES:** This direct final rule will be effective November 9, 2007, unless EPA receives adverse comments by October 10, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2007-0497 by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).
3. *Fax*: (617) 918-0047.
4. *Mail*: "Docket Identification Number EPA-R01-OAR-2007-0497," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023.
5. *Hand Delivery or Courier*. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA

New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R01-OAR-2007-0497. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov), or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the

contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

In addition, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency; Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Judge, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1045, fax number (617) 918-0045, e-mail [judge.robert@epa.gov](mailto:judge.robert@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

- I. Background and Purpose
- II. What action is EPA taking?
- III. Summary of SIP Revision
- IV. EPA's Evaluation of the SIP Revision
- V. Final Action
- VI. Statutory and Executive Order Reviews

#### **I. Background and Purpose**

On May 30, 2007, the State of New Hampshire submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a minor modification to the carbon monoxide (CO) maintenance plan for Nashua, New Hampshire. (A redesignation request and a maintenance plan for the Nashua CO nonattainment area were approved by EPA on November 29, 2000 (65 FR 71060).) The modification changes the triggering mechanism which will be used by the State to determine if contingency measures need to be implemented in Nashua. The end result of this action will be to allow the discontinuation of CO monitoring in the Nashua maintenance area.

#### **II. What action is EPA taking?**

EPA is approving revisions to the Nashua carbon monoxide maintenance plan submitted by the State of New Hampshire on May 30, 2007. Specifically, EPA is approving the State's modification of the portion of the maintenance plan used to determine when contingency measures need to be triggered to reduce CO concentrations in Nashua.

New Hampshire's SIP revision and EPA's evaluation of this SIP revision are discussed below. Additional details are also provided in a memorandum dated

July 27, 2007, entitled "Technical Support Document for Revision to the Carbon Monoxide Maintenance Plan for Nashua, New Hampshire," (TSD). The TSD and New Hampshire's submittal are available in the docket supporting this action.

#### **III. Summary of SIP Revision**

On May 30, 2007, the New Hampshire Department of Environmental Services submitted a SIP revision to EPA that contains a modification to their CO maintenance plan for the Nashua CO maintenance area. The modifications to the maintenance plan change the triggering mechanism by which contingency measures would be implemented and will allow the State to discontinue CO monitoring in the Nashua maintenance area. CO concentrations measured in Nashua have been below the National Ambient Air Quality Standard (NAAQS) for nearly 20 years, and in recent years, maximum measured concentrations have been less than 50% of the 9 parts per million 8-hour CO standard. In this SIP revision, the State of New Hampshire is establishing an alternative triggering mechanism, which will rely on CO data from a nearby CO monitor in Manchester, New Hampshire.

Section 6.5.3 of the State's currently approved CO maintenance plan, entitled "Selection of a Nonattainment Indicator," includes a triggering mechanism based on levels at the CO monitor in Nashua. Under the current maintenance plan, contingency measures in Nashua are triggered when a violation of the CO NAAQS is measured in Nashua. Under the revised maintenance plan, New Hampshire will rely on data from the Manchester CO monitor to determine when and if monitoring will be reestablished in the Nashua maintenance area, and, in some circumstances, when contingency measures will be triggered in the Nashua maintenance area. The revised maintenance plan language is found below:

"For the purposes of this plan, New Hampshire will be discontinuing CO monitoring in Nashua upon EPA approval of this revised plan. New Hampshire DES will continue to collect and review CO monitoring data from nearby Manchester, NH on an on-going basis. In the event the second highest CO concentration in any calendar year monitored in Manchester reaches 75 percent of the federal 1-hour or 8-hour national ambient air quality standard for CO, New Hampshire will, within 9 months of recording such concentrations, re-establish a CO monitoring site in Nashua consistent with EPA siting criteria, and resume analyzing and reporting those data. New Hampshire will continue to commit to implement its

contingency program in Nashua in the event that a CO violation (the 'contingency trigger') is monitored at the re-established Nashua monitoring site at any time during the maintenance period and to consider one or more of the other EPA-approved measures listed in Section 6.5.2 if necessary to reduce CO levels.

If the Manchester CO monitor measures a violation of either the federal 1-hour or 8-hour NAAQS for CO, the contingency measures in Section 6.5.2 will be implemented in Nashua as well, until a re-established Nashua CO monitor shows that the area is attainment of the CO standard.

When implementing contingency measures, New Hampshire will review and implement the measures necessary to remedy the violation, including transportation control measures (TCM) or other additional vehicle or fuel controls."

#### **IV. EPA's Evaluation of the SIP Revision**

EPA agrees that the mechanism described above represents an acceptable contingency triggering mechanism for the Nashua CO maintenance plan. Approval of this revised triggering mechanism will allow New Hampshire DES to discontinue monitoring in the Nashua area, which we believe is appropriate for this area which is currently measuring concentrations well below the existing 1-hour and 8-hour CO NAAQS. Under this plan, we believe air quality goals can be maintained, and State monitoring resources conserved.

On October 17, 2006, EPA published a final monitoring rule revising the minimum monitoring requirements. That rule explicitly recognized that, in some cases where measured levels of pollutants are low, shutting down certain CO monitors may be allowed. The rule, however, also explicitly provides that if a monitor is the only monitor in the area, and it serves as a trigger to implement a contingency measure in an EPA-approved maintenance plan, the maintenance plan would need to be revised, and the trigger replaced. (See 71 FR 61250 and 71 FR 61301.)

As described above, this action is approving a change to the mechanism that New Hampshire will use to determine when contingency measures need to be triggered to reduce CO concentrations in Nashua. Previously, the State would implement a contingency measure based on concentrations of CO monitored in Nashua. In light of the fact that Nashua CO concentrations have been well below the standard for some time, the State is looking to conserve resources. New Hampshire DES wants to use its CO monitor in Manchester, a nearby city, to aid in determining if Nashua has

a CO problem. Nashua and Manchester (both in Hillsborough County) are less than 20 miles apart, have similar populations, and both have had CO concentrations similar to each other for years. (The TSD provides a comparison of the data collected at the Nashua and Manchester CO monitors over the past several decades.) Both cities were designated nonattainment in 1990 for CO "by operation of law," though both had design values below the standard at that time. In both cases, only the city itself was designated nonattainment since data did not support an expansion of the nonattainment area. Both cities were redesignated to attainment in 2000, and both have measured CO concentrations well below the standard since that time.

In order to conserve resources, the State is seeking to discontinue monitoring in Nashua since current air quality levels do not warrant the additional expense of running a CO monitor in this area. The State has committed to continue CO monitoring in Manchester, and will reestablish CO monitoring in Nashua if air quality in Manchester degrades significantly. Starting in the early 1970s, EPA has set national standards that have considerably reduced emissions of CO and other pollutants from motor vehicles, including tailpipe emissions, new vehicle technologies, and clean fuels programs. Because of this, EPA believes that it is unlikely that either maintenance area will exceed the CO NAAQS again. Thus, we believe that the revisions that New Hampshire has made to its maintenance plan will continue to protect the citizens of New Hampshire from high CO concentrations, and also conserve resources.

#### V. Final Action

EPA is approving revisions to the Nashua CO maintenance plan submitted by the State of New Hampshire on May 30, 2007. Specifically, EPA is approving the State's request to modify the portion of the maintenance plan used to determine when contingency measures need to be implemented in Nashua. As described in more detail above, the State will shut down the Nashua CO monitor and rely on data from the CO monitor in Manchester to determine when and if monitoring will be reestablished in the Nashua maintenance area, and, in some circumstances, when contingency measures will be triggered in the Nashua maintenance area.

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 November 9, 2007 without further notice unless the Agency receives relevant adverse comments by October 10, 2007.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 9, 2007 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more

Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 9, 2007. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

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

Dated: August 22, 2007.

**Ira Leighton,**

*Acting Regional Administrator, EPA New England.*

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

**PART 52—[AMENDED]**

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

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

**Subpart EE—New Hampshire**

■ 2. Section 52.1528 is amended by adding paragraph (d) to read as follows:

**§ 52.1528 Control strategy: Carbon monoxide.**

\* \* \* \* \*

(d) Approval—On May 30, 2007, the New Hampshire Department of Environmental Services submitted a modification to the Nashua maintenance plan approved in paragraph (c) of this section. New Hampshire will not conduct CO monitoring in Nashua, but instead commits to continue to collect and review CO monitoring data from nearby Manchester, NH on an on-going basis. In the event the second highest CO concentration in any calendar year monitored in Manchester reaches 75 percent of the federal 1-hour or 8-hour national ambient air quality standard for CO, New Hampshire will, within 9 months of recording such

concentrations, re-establish a CO monitoring site in Nashua consistent with EPA siting criteria, and resume analyzing and reporting those data. New Hampshire commits to implement its contingency program in Nashua in the event that a CO violation is monitored at the re-established Nashua monitoring site at any time during the maintenance period. If the Manchester CO monitor measures a violation of the either the federal 1-hour or 8-hour NAAQS for CO, contingency measures will be implemented in Nashua as well, until a re-established CO monitor in Nashua shows that the area is in attainment of the CO standard.

[FR Doc. E7-17633 Filed 9-7-07; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2006-0046; FRL-8464-3]**

**Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio; Correction**

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This document corrects an error pertaining to the Motor Vehicle Emissions Budgets (MVEBs) for Belmont County, Ohio (Wheeling, WV-OH). The 2009 MVEB for oxides of nitrogen (NO<sub>x</sub>) from the proposed rule was incorrect in the final action. This final rule corrects that error.

**DATES:** *Effective Date:* This final rule is effective on September 10, 2007.

**FOR FURTHER INFORMATION CONTACT:** Steve Marquardt, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18)), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-3214, *marquardt.steve@epa.gov*.

**SUPPLEMENTARY INFORMATION:** EPA published four notices of final rulemaking to redesignate Washington County (Parkersburg-Marietta, WV-OH), Jefferson County (Steubenville-Weirton, WV-OH), Belmont County (Wheeling, WV-OH), Stark County (Canton, OH) and Allen County (Lima, OH) areas to attainment for the 8-hour ozone standard. For each of these counties EPA had proposed approval of the 2009 and 2018 MVEBs. In each of the final

rulemaking notices, EPA omitted the 2009 MVEBs from the final rules. A correction was made to add these 2009 MVEBs. When this correction was made there was an error in the 2009 MVEB for NO<sub>x</sub> for Belmont County, Ohio. This error is corrected in this action.

**Correction**

For Belmont County, Ohio, in the correction notice published in the **Federal Register** on July 5, 2007 (72 FR 36599), on page 36599 in the third column, second full paragraph: "In addition, and supported by and consistent with the ozone maintenance plan, EPA is approving the 2018 VOC and NO<sub>x</sub> MVEBs for transportation conformity purposes. The 2018 MVEBs \* \* \*." is to read: "In addition, and supported by and consistent with the ozone maintenance plan, EPA is approving the 2009 and 2018 VOC and NO<sub>x</sub> MVEBs for transportation conformity purposes. For Belmont County, Ohio, the 2009 MVEBs are 2.60 tons per day of VOC and 4.69 tons per day of NO<sub>x</sub> and the 2018 MVEBs are 1.52 tons per day of VOC and 1.91 tons per day of NO<sub>x</sub>. West Virginia develops MVEBs for its portion of the area."

EPA is revising 40 CFR Section 52.1885(ff)(2) to reflect this corrected 2009 MVEB for NO<sub>x</sub> for Belmont County, Ohio.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an error in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

**Statutory and Executive Order Reviews**

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, 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)). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative