

40 CFR citation	OMB control No.
<b>Significant New Uses of Chemical Substances</b>	
* * *	* *
721.10068 .....	2070-0038
* * *	* *
* * *	* *

provisions of § 721.45(f) do not apply to this section. A person who imports or processes elemental mercury as part of an article is not exempt from submitting a significant new use notice.

(2) [Reserved]

[FR Doc. E7-19705 Filed 10-4-07; 8:45 am]

BILLING CODE 6560-50-S

Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**D. Hand Delivery:** At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR-2007-0511. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <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 <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 <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania

**PART 721—[AMENDED]**

■ 3. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. By adding new § 721.10068 to subpart E to read as follows:

**§ 721.10068 Elemental mercury.**

(a) **Definitions.** The definitions in § 721.3 apply to this section. In addition, the following definition applies: *Motor vehicle* has the meaning found at 40 CFR 85.1703.

(b) **Chemical substances and significant new uses subject to reporting.**

(1) The chemical substance elemental mercury (CAS. No. 7439-97-6) is subject to reporting under this section for the significant new uses described in paragraph (b)(2) of this section.

(2) The significant new uses are:

(i) Manufacture or processing of elemental mercury for use in convenience light switches in new motor vehicles.

(ii) Manufacture or processing of elemental mercury for use in convenience light switches as new aftermarket replacement parts for motor vehicles.

(iii) Manufacture or processing of elemental mercury for use in switches in anti-lock brake systems (ABS) in new motor vehicles.

(iv) Manufacture or processing of elemental mercury for use in switches in ABS as new aftermarket replacement parts for motor vehicles that were manufactured after January 1, 2003.

(v) Manufacture or processing of elemental mercury for use in switches in active ride control systems in new motor vehicles.

(vi) Manufacture or processing of elemental mercury for use in switches in active ride control systems as new aftermarket replacement parts for motor vehicles that were manufactured after January 1, 2003.

(c) **Specific requirements.** The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) **Suspension or revocation of certain notification exemptions.** The

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2007-0511; FRL-8476-9]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Carbon Monoxide Maintenance Plan Update; Limited Maintenance Plan in Philadelphia County**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Pennsylvania State Implementation Plan (SIP) that was submitted on March 19, 2007 by the Pennsylvania Department of the Environment. This revision is a conversion of the currently approved full maintenance plan for carbon monoxide for the years 2007-2017, to a maintenance plan that will utilize a limited maintenance plan option for the same period. This will allow Federal actions requiring conformity determinations to be considered as automatically satisfying the budget test for carbon monoxide. EPA is approving these revisions to the Philadelphia County carbon monoxide maintenance plan in accordance with the requirements of the Clean Air Act (the Act). This action is being taken under section 110 of the Act.

**DATES:** This rule is effective on December 4, 2007 without further notice, unless EPA receives adverse written comment by November 5, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2007-0511 by one of the following methods:

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

B. *E-mail:* [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

C. *Mail:* EPA-R03-OAR-2007-0511, Marilyn Powers, Acting Chief, Air

19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Department of Public Health, Air Management Services, 321 University Avenue, Philadelphia, Pennsylvania 19104.

**FOR FURTHER INFORMATION CONTACT:**

Catherine L. Magliocchetti, (215) 814-2174, or by e-mail at [magliocchetti.catherine@epa.gov](mailto:magliocchetti.catherine@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information is arranged as follows:

- I. What Is the Background of This SIP Revision?
- II. What Is a Limited Maintenance Plan?
- III. What Does This Mean for Transportation Conformity?
- IV. What Final Action Is EPA Taking Today?
- V. Statutory and Executive Order Reviews

**I. What Is the Background of This SIP Revision?**

On March 19, 2007, the Pennsylvania Department of Environmental Protection submitted a SIP revision to EPA, requesting that EPA convert the previously approved second follow-on ten year carbon monoxide maintenance plan, covering the years 2007–2017, to a limited maintenance plan designation.

In 1991, EPA designated part of Philadelphia County as a carbon monoxide nonattainment area (see 56 FR 56694, 11/6/91). The Commonwealth of Pennsylvania subsequently developed a state implementation plan to control carbon monoxide emissions, utilizing federal and state control measures, ultimately resulting in attainment of the carbon monoxide National Ambient Air Quality Standard (NAAQS). The area was redesignated to attainment, effective March 15, 1996 (61 FR 2926, 1/30/96) and the ten year maintenance plan covering the period 1997–2007 was also approved. Following this period, in accordance with section 175A(b) of the Act, on September 3, 2004, Pennsylvania submitted a second ten year follow-on maintenance plan, covering the period 2007–2017, providing for continued attainment of the carbon monoxide NAAQS in Philadelphia County. This maintenance plan, approved by EPA (70 FR 16958, 4/4/05) and effective on June 3, 2005, established a motor vehicle emissions budget for carbon monoxide that is considered constraining for the purposes of determining conformity with the approved SIP. The purpose of

the latest SIP revision is to convert the full maintenance plan to a limited maintenance plan, which will allow for emissions budgets in the affected area to be treated as essentially not constraining for the purposes of future transportation and general conformity determinations.

**II. What Is a Limited Maintenance Plan?**

EPA detailed the limited maintenance plan option in a memorandum entitled, “Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas,” signed by Joseph Paisie, Group Leader, Integrated Policy and Strategies Group, Office of Air Quality Planning and Standards (OAQPS), dated October 6, 1995. Pursuant to this approach, we will consider the maintenance demonstration satisfied for “nonclassified” areas if the monitoring data show that the design value is at or below 7.65 parts per million (ppm), which is equal to 85 percent of the level of the 8-hour carbon monoxide NAAQS. The design value must be based on eight consecutive quarters of data. For such areas, there is no requirement to project emissions of air quality over the maintenance period. We believe that if the area begins the maintenance period at or below 85 percent of the 8-hour carbon monoxide NAAQS, then the applicability of Prevention of Significant Deterioration (PSD) requirements, the control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the 10-year maintenance period.

In addition, the design value for the area must continue to be at or below 7.65 ppm until the time of the final EPA action. Current carbon monoxide design values for Philadelphia County meet the requirements for a limited maintenance plan. The current design value in Philadelphia for carbon monoxide is 3.4 ppm, and recent design values have been between one-third to less than one-half of the NAAQS for this pollutant. Projections of ambient air quality throughout the maintenance period conclude that the 2017 design value for carbon monoxide would be 2.2 ppm. Accordingly, we believe this redesignated carbon monoxide attainment area qualifies for use of a limited maintenance plan.

Further, the EPA guidance document referenced above, sets forth the core criteria for a limited maintenance plan. All of these criteria were met in the full maintenance plan approved by EPA and effective June 3, 2005 (70 FR 16958, 4/4/05), and will not be restated here, as this action only relates to use of the limited maintenance plan option in the

context of determining conformity with the SIP.

**III. What Does This Mean for Transportation Conformity?**

Section 176(c) of the Act defines transportation conformity as conformity to the SIP’s purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. The Act further defines transportation conformity to mean that no Federal transportation activity will: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of a standard in any area; or (3) delay timely attainment of any standard in any area. The Federal Transportation Conformity Rule, 40 CFR Part 93, subpart A, sets forth the criteria and procedures for demonstrations assuring conformity of transportation plans, programs and projects that are developed, funded or approved by the U.S. Department of Transportation, and by metropolitan planning organizations or other recipients of funds under Title 23 U.S.C. of the Federal Transit Administration (49 U.S.C. Chapter 53). The transportation conformity rule applies within all nonattainment and maintenance areas. As prescribed by the transportation conformity rule, once an area has an applicable state implementation plan with motor vehicle emissions budgets, the expected emissions from planned transportation activities must be consistent with (i.e., conform to) such established budgets for that area.

In the case of the Philadelphia County, Pennsylvania, carbon monoxide limited maintenance plan area, however, the emissions budgets may be treated as essentially non-constraining for the length of the second maintenance period as long as the area continues to meet the limited maintenance plan criteria. There is no reason to expect that this area will experience so much growth in that period that a violation of the carbon monoxide NAAQS would result.

Since limited maintenance plan areas are still maintenance areas however, transportation conformity determinations are still required for transportation plans, programs and projects. Specifically, determinations, transportation plans, transportation improvement programs and projects must still demonstrate that they are fiscally constrained (40 CFR part 108) and must meet the criteria consultation and Transportation Control Measure (TCM) implementation with the conformity rule (40 CFR 93.112 and 40

CFR 93.113). In addition, projects in limited maintenance areas will still be required to meet the criteria for carbon monoxide hot spot analyses to satisfy "project level" conformity determinations (40 CFR 93.116 and 40 CFR 93.123). All aspects of transportation conformity (with the exception of satisfying the emissions budget test) will still be required.

If a carbon monoxide attainment area monitor records concentrations at or above the limited maintenance eligibility criteria of 7.65 ppm, then the maintenance area will no longer qualify for a limited maintenance plan and will revert to a full maintenance plan. In this event, the limited maintenance plan would remain applicable for conformity purposes only until the full maintenance plan is submitted and EPA has found the SIP's motor vehicle emissions budgets adequate for conformity purposes, or EPA approves the full maintenance plan SIP revision.

#### IV. What Final Action Is EPA Taking Today?

EPA is approving a SIP revision request submitted by the Pennsylvania Department of the Environment, requesting a limited maintenance plan option for the carbon monoxide maintenance area in Philadelphia County. This SIP revision supplements the currently approved carbon monoxide maintenance plan and establishes a limited maintenance plan with an unlimited budget for regional motor vehicle emissions for the Philadelphia County, Pennsylvania carbon monoxide maintenance area. For future Federal actions requiring conformity determinations under the transportation conformity rule and general conformity rule (40 CFR Part 93), the area will be considered to already satisfy the budget test for carbon monoxide.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on December 4, 2007 without further notice unless EPA receives adverse comment by November 5, 2007. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a

second comment period on this action. Any parties interested in commenting must do so at this time.

#### V. Statutory and Executive Order Reviews

##### A. General 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 (Pub. L. 104-4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it 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.*).

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

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

##### C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 4, 2007. 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, which approves a conversion of the Philadelphia County carbon monoxide full maintenance plan to a limited maintenance plan option for the purpose of satisfying future conformity determinations, 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.

Dated: September 14, 2007.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart NN Pennsylvania**

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by revising the

existing entry for Carbon Monoxide Maintenance Plan (Philadelphia County) to read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*  
(1) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Carbon Monoxide Maintenance Plan ....	Philadelphia County.	9/8/95, 10/30/95 9/3/04	1/30/96 ..... 61 FR 2982 ..... 4/4/05 ..... 70 FR 16958 .....	52.2063(c)(105).  Revised Carbon Monoxide Maintenance Plan Base Year Emissions Inventory using MOBILE 6. Conversion of the Carbon Monoxide Maintenance Plan to a Limited Maintenance Plan Option.
* * * * *	* * * * *	3/19/07	10/5/07 [Insert page number where the document begins].	
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[FR Doc. E7-19516 Filed 10-4-07; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 97**

[EPA-R04-OAR-2007-0423-200743(a); FRL-8475-6]

**Approval of Implementation Plans; North Carolina: Clean Air Interstate Rule**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina, through the North Carolina Department of Environmental and Natural Resources on August 7, 2006. These revisions incorporate provisions related to the implementation of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005, and subsequently revised on April 28, 2006, and December 13, 2006, and the CAIR Federal Implementation Plan (FIP) concerning sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>) annual, and NO<sub>x</sub> ozone season emissions for the State of North Carolina, promulgated on April 28, 2006, and subsequently revised December 13, 2006. EPA is not making any changes to the CAIR FIP, but is amending, to the extent EPA approves North Carolina's SIP revisions, the

appropriate appendices in the CAIR FIP trading rules simply to note that approval.

On July 3, 2007, North Carolina requested that EPA only act on a portion of the August 7, 2006, submittal as an abbreviated SIP. Consequently, EPA is approving the abbreviated SIP revisions that address the methodology to be used to allocate annual and ozone season NO<sub>x</sub> allowances to existing and new units under the CAIR FIPs and CAIR FIP opt-in provisions.

**DATES:** This direct final rule is effective December 4, 2007 without further notice, unless EPA receives adverse comment by November 5, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2007-0423, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: ward.nacosta@epa.gov.
3. *Fax*: (404) 562-9019.
4. *Mail*: "EPA-R04-OAR-2007-0423", Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
5. *Hand Delivery or Courier*: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management

Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. "EPA-R04-OAR-2007-0423." 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*, 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* or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *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