

## 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves establishing a safety zone around a fireworks display and is expected to have no impact on the water or environment. This zone is designed to protect mariners and spectators from the hazards associated with aerial fireworks displays. An environmental analysis checklist and a categorical exclusion determination are available in

the docket where indicated under **ADDRESSES**.

## List of Subject 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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05-0755 to read as follows:

#### § 165.T05-0755 Safety Zone; Thunder on the Bay, Chesapeake Bay, Buckroe Beach Park, Hampton, VA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Chesapeake Bay within the area bounded by a 210-foot radius circle centered on position 37°02'23" N/ 076°17'22" W (NAD 1983).

(b) *Definition.* *Captain of the Port Representative* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his or her behalf.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or designated representative.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Command Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone number (757) 638-6641.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF-FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement Period.* This regulation will be enforced from 9:15 p.m. to 10 p.m. on September 17, 2010.

Dated: August 10, 2010.

**M.S. Ogle,**

*Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.*

[FR Doc. 2010-22418 Filed 9-8-10; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2010-0556; FRL-9197-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Carbon Monoxide (CO) Limited Maintenance Plan for the Twin Cities Area

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a request submitted by the Minnesota Pollution Control Agency (MPCA) on June 16, 2010, to revise the Minnesota State Implementation Plan (SIP) for carbon monoxide (CO) under the Clean Air Act (CAA). The State has submitted a limited maintenance plan for CO showing continued attainment of the CO National Ambient Air Quality Standard (NAAQS) in the Minneapolis-St. Paul (Twin Cities) area. The one hour CO NAAQS and eight hour CO NAAQS are 35 parts per million (ppm), and 9 ppm, respectively. This limited maintenance plan satisfies section 175A of the CAA, and is in accordance with EPA's October 29, 1999, approval of the State's redesignation request and maintenance plan for the Twin Cities area. Additionally, this limited maintenance plan for CO satisfies the requirements contained in the October 6, 1995, EPA memorandum entitled "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas."

**DATES:** This direct final rule will be effective November 8, 2010, unless EPA receives adverse comments by October 12, 2010. 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 No. EPA-R05-OAR-2010-0556, by one of the following methods:

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

2. E-mail: [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov).

3. Fax: (312) 692-2054.

4. Mail: Jay Bortzer, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. Hand Delivery: Jay Bortzer, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2010-0556. 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 docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other

information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang, Environmental Engineer, at (312) 886-0258 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Andy Chang, Environmental Engineer, Air Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0258, [chang.andy@epa.gov](mailto:chang.andy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

**I. Background**

- A. Why did the State make this submittal?  
B. Limited Maintenance Plan

1. What is a limited maintenance plan, and what are the general requirements that must be met by a State in order to submit a limited maintenance plan?  
2. What additional elements does a State need to include as part of a limited maintenance plan?

- C. Did the State hold public hearings for the limited maintenance plan?

**II. What criteria is EPA using to evaluate this submittal?**

**III. What is EPA's analysis of this submittal?**

- A. Requirements of Section 175A of the CAA  
B. Consistency With the October 6, 1995, Memorandum  
1. Attainment Inventory  
2. Maintenance Demonstration  
3. Monitoring Network and Verification of Continued Attainment  
4. Contingency Plan  
5. Conformity Determination Under Limited Maintenance Plan

**IV. What action is EPA taking?**

**V. Statutory and Executive Order Reviews**

**I. Background**

*A. Why did the State make this submittal?*

On November 6, 1991, EPA designated most of the Twin Cities seven county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties), along with parts of Wright County, as being a moderate nonattainment area for the CO

NAAQS under section 107 of the CAA (56 FR 56694).

On March 23, 1998, MPCA submitted a redesignation request and maintenance plan for the Twin Cities nonattainment area. EPA found that the redesignation request met all applicable requirements under section 107(d)(3)(E) of the CAA, and also found that the maintenance plan met the requirements of section 175A of the CAA. MPCA's redesignation request and maintenance plan for the Twin Cities area was approved on October 29, 1999 (64 FR 58347); comprehensive details about the maintenance plan can be found in EPA's proposed approval on May 13, 1999 (64 FR 25855).

Section 175A(b) of the CAA mandates that the State shall submit an additional revision to the maintenance plan eight years after redesignation of any area as an attainment area. Minnesota's limited maintenance plan satisfies this requirement, and is also consistent with the requirements for limited maintenance plan elements outlined in an October 6, 1995, memorandum from the Group Leader of the Integrated Policy and Strategies Group, entitled, "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas." EPA observes that although the Twin Cities area was designated as a moderate nonattainment area for the CO NAAQS, redesignation to attainment status in conjunction with meeting all requirements of the October 6, 1995, memorandum, allows the State to be eligible to submit a limited maintenance plan as the update to its original maintenance plan per section 175A(b) of the CAA. The State submitted the limited maintenance plan to EPA on June 16, 2010.

*B. Limited Maintenance Plan*

The definition, general requirements, and additional elements of a limited maintenance plan will be explained below.

1. What is a limited maintenance plan, and what are the general requirements that must be met by a State in order to submit a limited maintenance plan?

A maintenance plan, as defined in section 175A of the CAA, is a revision to the SIP to provide for the maintenance of the NAAQS for the air pollutant in question in the area concerned for at least 10 years after the redesignation. Eight years after the redesignation, States should submit an update to the maintenance plan to provide for the maintenance of the NAAQS for another 10 years after the initial 10 year period has expired. As previously mentioned, Minnesota's

original maintenance plan was approved on October 29, 1999 (64 FR 58347).

A limited maintenance plan for CO is a maintenance plan that is available to States who have demonstrated that the design values for CO in the nonclassifiable nonattainment area are at, or below, 7.65 ppm (85 percent of the eight hour CO NAAQS). The area's design value must not exceed the 7.65 ppm threshold throughout the entire rulemaking process. The design value for CO is defined as the second highest reading in the area in a two year period. Should an area have more than one monitor, the monitor with the second highest value in a two year period serves as the design monitor. As previously mentioned, EPA has determined that the limited maintenance plan for CO is available to all States as part of their update to maintenance plans per section 175A(b), regardless of the original nonattainment classification, or lack thereof.

2. What additional elements does a State need to include as part of a limited maintenance plan?

In addition to meeting all applicable requirements of section 175A of the CAA, States should also include the following elements in a limited maintenance plan for CO: Attainment Inventory, Maintenance Demonstration, Monitoring Network/Verification of Continued Attainment, Contingency Plan, and Conformity Determinations Under Limited Maintenance Plans. These elements were outlined in the October 6, 1995, EPA memorandum, and will be comprehensively discussed below.

*C. Did the State hold public hearings for the limited maintenance plan?*

Public notice was given on May 10, 2010, in the *Minnesota State Register*.

## II. What criteria is EPA using to evaluate this submittal?

In addition to the general requirements in section 175A of the CAA, guidance for CO limited maintenance plans is provided in the October 6, 1995, memorandum, which states that the following five components need to be addressed: Attainment Inventory, Maintenance Demonstration, Monitoring Network/Verification of Continued Attainment, Contingency Plan, and Conformity Determination Under Limited Maintenance Plan.

## III. What is EPA's analysis of this submittal?

### A. Requirements of Section 175A of the CAA

Section 175A contains four subsections pertaining to maintenance plans. Section 175A(a) establishes requirements for initial SIP redesignation request maintenance plans, as addressed in EPA's October 29, 1999, approval of the Minnesota plan. Section 175A(b) requires States to submit an update to the maintenance plan eight years following the original redesignation to attainment, and MPCA has satisfied the requirements of this element with its current submittal. It also requires that within this update, the State must outline methods for maintaining the pertinent NAAQS for ten years after the expiration of the ten-year period referred to in subsection (a), *i.e.*, Minnesota's maintenance plan update must outline methods for maintaining the CO NAAQS through 2019. However, EPA stated in the October 6, 1995, memorandum that it is not necessary for States to project emissions over this maintenance period. Instead, EPA believes that if the area begins the maintenance period at, or below, 7.65 ppm (85 percent of the eight hour CO NAAQS), the applicability of prevention of significant deterioration (PSD) requirements,<sup>1</sup> control measures already in the SIP, and other Federal measures should provide adequate assurance of maintenance throughout the maintenance period. Section 175A(c) does not apply to this rulemaking, given that EPA has previously redesignated the Twin Cities area to attainment for CO. The contingency provisions requirements outlined in section 175A(d) will be addressed in detail in section B4, below.

### B. Consistency With the October 6, 1995, Memorandum

As discussed above, EPA's interpretation of section 175A of the CAA, as it pertains to limited maintenance plans for CO, is contained in the October 6, 1995, memorandum. Minnesota has addressed the five major elements of that policy, as follows:

#### 1. Attainment Inventory

The State is required to develop an attainment emissions inventory to identify a level of emissions in the area which is sufficient to attain the CO NAAQS. In its June 16, 2010, submittal, MPCA provided a comprehensive CO

emissions inventory for nonroad mobile, stationary, and onroad mobile sources. This set of estimated emissions was identical to that which EPA approved for the Twin Cities area on December 9, 2004 (69 FR 71375). The December 9, 2004, approval was not a full update to the CO maintenance plan for the Twin Cities area, but applied only to the 1996 and 2009 CO emissions inventory and the 2009 Motor Vehicle Emissions Budgets; both of these emissions were estimated using the MOBILE6 model. EPA observed in the December 9, 2004, approval that the updated emissions using the MOBILE6 model were much better predictors of CO emissions in the Twin Cities area because there had been substantial changes made to the model between MOBILE6 and its MOBILE5 predecessor, released in 1993. In its June 16, 2010, submittal, MPCA highlighted that the total estimated CO emissions in the Twin Cities area has decreased from 2,506 tons per winter day in 1996, to 1,856 tons per winter day in 2009.<sup>2</sup> This represents a 26 percent decrease in total CO emissions in tons per winter day. The onroad mobile emissions for the Twin Cities area, thought to be the major source of the original nonattainment designation, decreased from 1,872 tons per winter day in 1996 to 1,311 tons per winter day in 2009. This represents a 30 percent decrease in onroad mobile CO emissions in tons per winter day. MPCA also estimated that between 1996 and 2030, there would be a 36 percent decrease in onroad mobile CO emissions in tons per winter day in the Twin Cities area. Monitoring data from 1998 to 2009 shows consistent compliance with the eight hour CO NAAQS at levels well below the 85 percent threshold of 7.65 ppm; therefore the State has satisfied the attainment inventory requirement for limited maintenance plans.

#### 2. Maintenance Demonstration

In the October 6, 1995, memorandum, EPA stated that the maintenance demonstration requirement is considered to be satisfied for nonclassifiable areas if the monitoring data show that the area is meeting the air quality criteria for limited maintenance areas, *i.e.*, 85 percent of the eight hour CO NAAQS, or 7.65 ppm. As previously mentioned, EPA determined in this same memo that there is no requirement to project emissions over the maintenance period. Instead, EPA believes that if the area begins the maintenance period at, or

<sup>1</sup> EPA has delegated the authority to implement the Federal PSD program pursuant to 40 CFR 52.21 to Minnesota.

<sup>2</sup> CO emissions are generally highest during the winter, and thus the modeling was performed in such a way that yielded tons per winter day.

below, 7.65 ppm (85 percent of the eight hour CO NAAQS), the applicability of PSD requirements, control measures already in the SIP, and other Federal measures should provide adequate assurance of maintenance throughout the maintenance period.

In its submittal, MPCA showed, using validated ambient monitoring data collected between 1998 and July of 2009, that the Twin Cities area is meeting both the one hour and eight

hour CO NAAQS. The design values for the eight hour CO NAAQS in this area are below the 7.65 ppm threshold; therefore, the State has satisfied the maintenance demonstration requirement for limited maintenance plans. In addition, the design values for the one hour CO NAAQS in the Twin Cities area are very low when compared to the NAAQS; the highest design value for the one hour CO NAAQS between 1998 and 2009 was 11.1 ppm, or 31

percent of the NAAQS. The design values for the Twin Cities area for 2007 to 2009 (in its entirety) are shown below in Table 1. Subsequent Air Quality Systems (AQS) queries for validated monitoring data for available 2010 data indicates that the one hour and eight hour CO NAAQS are being met in the Twin Cities area at values well below either NAAQS.

TABLE 1—CO DESIGN VALUES AND PERCENTAGE OF NAAQS FOR THE TWIN CITIES AREA

Year	1 Hour CO NAAQS design value (ppm)	Percent of 1 Hour CO NAAQS	8 Hour CO NAAQS design value (ppm)	Percent of 8 Hour CO NAAQS
2007 .....	2.5	7.1	1.8	20.0
2008 .....	3.1	8.9	2.4	26.7
2009 .....	2.5	7.1	2.0	22.2

3. Monitoring Network and Verification of Continued Attainment

Once an area has been redesignated, the State should continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR Part 58, to verify the attainment status of the area. This is particularly important for areas using a limited maintenance plan because there will be no cap on emissions. In its submittal, MPCA specifically identifies two monitoring sites located in the Twin Cities area, which are AQS I.D. 27-053-0954 (528 Hennepin Ave. in Minneapolis) and AQS I.D. 27-123-0050 (1088 W. University Ave. in St. Paul). MPCA commits to continue monitoring CO at these two sites to ensure that CO concentrations remain well below the 7.65 ppm threshold for limited maintenance plans. Furthermore, MPCA commits to consult with EPA should changes to the existing monitoring network be needed, and the State's monitoring plan for 2011 can be found at the following site: <http://www.pca.state.mn.us/index.php/air/air-monitoring-and-reporting/air-emissions-and-monitoring/air-monitoring-network-plan.html>. The State has satisfied the monitoring network and verification of continued attainment requirements for the limited maintenance plan.

4. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of an area. The October 6, 1995, memorandum further requires that the contingency provisions identify the

measures to be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State.

In its June 16, 2010, submittal, MPCA committed to the same contingency measures that EPA previously approved on October 29, 1999. MPCA stated that if CO levels in the Twin Cities area reach 85 percent of the eight hour CO NAAQS, it would work closely with EPA to determine which of the originally listed contingency measures would be the most appropriate to implement in the case of a NAAQS violation.

MPCA also committed to use a monitored air quality violation as the trigger event for the contingency measure. The triggering date will be the date that the State certifies to EPA that the air quality data are quality assured and not found to be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement. The triggering date will be no more than 30 days after an ambient air quality violation is monitored. MPCA attested that it would implement one or more appropriate contingency measures if a violation occurs and the triggering event is confirmed. The applicable measure(s) would be selected by the MPCA commissioner within six months of a triggering event; the measure(s) would be implemented per the respective schedules that EPA approved on October 29, 1999. Specific details about these measures and implementation schedules can be found in EPA's May 13, 1999 (64 FR 25855) proposed approval. The State has satisfied the contingency plan requirements pursuant

to section 175A(d) of the CAA as well as those of the October 6, 1995, memorandum.

5. Conformity Determination Under Limited Maintenance Plan

The transportation conformity rule of November 24, 1993, (58 FR 62188) and the general conformity rule of November 30, 1993 (58 FR 63214) apply to nonattainment areas and maintenance areas operating under maintenance plans. Under either rule, one means of demonstrating conformity of Federal actions is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area.

Minnesota currently uses the "Transportation Conformity Procedures for Minnesota: A Handbook for Transportation and Air Quality Professionals," developed by an interagency workgroup, to determine transportation conformity. This handbook addresses the consultation and other required portions of the Federal transportation conformity program. Minnesota is in the process of developing a memorandum of understanding (MOU) to formally implement the processes in the handbook, which are already being used. Additionally, Minnesota intends to submit the MOU and handbook to EPA for approval as Minnesota's transportation conformity SIP.

The October 6, 1995, memorandum also states that emissions budgets in limited maintenance plan areas may be treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that such an area will experience so much growth in that period that a violation of

the CO NAAQS would result. In other words, EPA concluded that, for these areas, emissions need not be capped for the maintenance period.

For transportation conformity, Federal actions requiring conformity determinations under the transportation conformity rule could be considered to satisfy the "budget test" required in sections 93.118, 93.119, and 93.120 of the rule once the limited maintenance plan is approved by EPA. In its June 16, 2010, submittal, MPCA observed that for the Twin Cities area, transportation plans, transportation improvement, and regionally significant projects still require conformity determinations in order to proceed. Additionally, Federally funded projects are still subject to "hot spot" analysis requirements. However, no regional modeling analysis would be required. The State has satisfied the conformity determination under limited maintenance plan requirements for the limited maintenance plan.

#### IV. What action is EPA taking?

We are approving this CO limited maintenance plan for the Twin Cities area. The State of Minnesota has complied with requirements of section 175A of the CAA, as interpreted by the guidance provided in the October 6, 1995, memorandum. Minnesota has shown through its submittal that CO emissions in the Twin Cities area have decreased steadily between 1996 and 2009. Minnesota has also shown that the monitored levels of CO in the Twin Cities area have been consistently well below the requisite level of 7.65 ppm for the eight hour CO NAAQS in order to qualify for the limited maintenance plan option. Lastly, Minnesota has shown that all monitored values for the one hour and eight hour CO NAAQS have been consistently well below the respective NAAQS levels. These low monitored values of CO are expected through the end of the maintenance period.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan if relevant adverse written comments are filed. This rule will be effective November 8, 2010 without further notice unless we receive relevant adverse written comments by October 12, 2010. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will

withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period; therefore, any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective November 8, 2010.

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible

methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because approval of a CO limited maintenance plan does not impose any new regulatory requirements on Tribes, impact any existing sources of air pollution Tribal lands, nor impair the maintenance of CO NAAQS in Tribal lands. However, because there are Tribal lands located in Scott County, we provided the affected Tribe with the opportunity to consult with EPA on the CO limited maintenance plan. The affected Tribe raised no concerns with the final rule.

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 action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Incorporation by reference.

Dated: August 26, 2010.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ 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 Y—Minnesota**

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

**§ 52.1237 Control strategy: Carbon monoxide.**

\* \* \* \* \*

(e) Approval—On June 16, 2010, Minnesota submitted a carbon monoxide (CO) limited maintenance plan for the Minneapolis-St. Paul area under section 175A of the CAA for the continued attainment of the one hour and eight hour CO NAAQS.

[FR Doc. 2010-22338 Filed 9-8-10; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R06-OAR-2010-0113; FRL-9197-8]

**Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Baton Rouge 8-Hour Ozone Nonattainment Area; Determination of Attainment of the 8-Hour Ozone Standard**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA has determined that the Baton Rouge (BR) moderate 8-hour ozone nonattainment area has attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). This determination is based upon complete, quality assured, certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2006–2008 and 2007–2009 monitoring periods. Preliminary data available for 2010 is consistent with continued attainment.

Under the provisions of EPA's 8-hour ozone implementation rule, as a consequence of this determination the requirements for this area to submit an

attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plan (SIP) requirements related to attainment of the 1997 8-hour ozone NAAQS, are suspended for so long as the area continues to attain the 1997 8-hour ozone NAAQS.

**DATES:** This final rule is effective October 12, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-2010-0113. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PDL), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays.

Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Rennie, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7367, fax (214) 665-7263, e-mail address [rennie.sandra@epa.gov](mailto:rennie.sandra@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” means EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

- I. What action is EPA taking?
- II. What is the effect of this action?
- III. Response to Comments
- IV. Final Action
- V. Statutory and Executive Order Reviews

**I. What action is EPA taking?**

We are determining that the BR 8-hour ozone nonattainment area is currently attaining the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). This determination is based upon complete, quality-assured, certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2006–2008 and 2007–2009 monitoring periods, and that preliminary data available for 2010 is consistent with continued attainment of the NAAQS.

As a consequence of this determination, under the provisions of EPA's ozone implementation rule (see 40 CFR section 51.918), the requirements for this area to submit an attainment demonstration, a reasonable further progress plan (RFP), applicable contingency measures, and other planning State Implementation Plan (SIP) requirements related to attainment of the 1997 8-hour ozone NAAQS, are suspended for so long as the area continues to attain the 1997 8-hour ozone NAAQS.

The rationale for our action is explained in the Notice of Proposed Rulemaking (NPR) published on June 25, 2010 (75 FR 36316) and in today's rulemaking. We received one comment in support of the proposal.

**II. What is the effect of this action?**

Under the provisions of EPA's ozone implementation rule, 40 CFR 51.918, the requirements for the State of Louisiana to submit an attainment demonstration, a RFP plan, contingency measures under sections 172(c)(9), and any other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS are suspended for so long as the area continues to attain the 1997 8-hour standard.

If EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the BR area has violated the 1997 8-hour ozone NAAQS, the basis for the suspension of the requirements would no longer exist, and EPA would take action to withdraw the determination and direct the area to address the suspended requirements.

This final action does not constitute a redesignation to attainment under CAA section 107(d)(3), because we do not yet have an approved maintenance plan for the area as required under section 175A of the CAA, nor a determination that the area has met the other requirements for redesignation. The classification and designation status of the area remain moderate nonattainment for the 1997 8-hour ozone NAAQS until such time as