(A) Remainder of September 8, 1995 and October 30, 1995 State submittal.

3. Section 52.2036 is added to read as follows:

§ 52.2036 1990 Base Year Carbon Monoxide Emission Inventory for Philadelphia County.

EPA approves as a revision to the Pennsylvania State Implementation Plan the 1990 base year carbon monoxide emission inventory for Philadelphia County, submitted by the Secretary, Pennsylvania Department of Environmental Protection, on September 8, 1995 and October 30, 1995. This submittal consists of the 1990 base year stationary, area, non-road mobile and on-road mobile emission inventories in Philadelphia County for the pollutant carbon monoxide (CO).

PART 81—[AMENDED]

Subpart C—Section 107 Attainment Status Designations

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

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.339, the table for "Pennsylvania-Carbon Monoxide" is amended by revising the entry for the Philadelphia-Camden County area to read as follows:

§ 81.339 Pennsylvania.

* * * * *

PENNSYLVANIA—CARBON MONOXIDE

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
	.....	Nonattainment	.....	Not Classified.
*	*	*	*	*
Philadelphia-Camden County Area				
Philadelphia County (part)				
City of Philadelphia-high traffic areas within the Central Business District and certain other high traffic density areas.	March 15, 1996	Attainment	.....	
*	*	*	*	*

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

[FR Doc. 96–1104 Filed 1–29–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[FRL–5324–9; MD–45–3003, MD–45–3004; MD–45–3007; VA–53–5001, VA–53–5002; VA–34–5003, VA–34–5004; DC–30–2001; DC–30–2002, DC–10–2003]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Redesignation of the Metropolitan Washington Carbon Monoxide Area to Attainment and Approval of the Area's Maintenance Plan and Emission Inventory; Commonwealth of Virginia, District of Columbia and the State of Maryland

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a maintenance plan and a request to redesignate the Metropolitan Washington area; including the Counties of Alexandria and Arlington, Virginia; Prince Georges and Montgomery Counties in Maryland, and the District of Columbia (the "Washington Carbon Monoxide (CO) nonattainment area") from nonattainment to attainment for CO. The maintenance plan and redesignation requests were submitted by the Commonwealth of Virginia and the State of Maryland and the District of Columbia. Under the 1990 amendments of the Clean Air Act (CAA) designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is approving Virginia, Maryland and the District of Columbia requests because it meets the maintenance plan and redesignation requirements set forth in the CAA. This action is being taken under section 110 of the CAA.

DATES: This action will become effective on March 15, 1996 unless, by February 29, 1996 adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; District of Columbia Department of Consumer and Regulatory Affairs, 2100 Martin Luther King Ave, S.E., Washington, DC 20020; Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224; Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Kelly A. Sheckler, (215) 597–6863.

SUPPLEMENTARY INFORMATION: On October 4, 1995 the Commonwealth of Virginia, and on October 12, 1995 the State of Maryland and the District of Columbia submitted formal revisions to their State Implementation Plans (SIP). The SIP revisions consists of a request to redesignate the Virginia, Maryland and District of Columbia portions of the Metropolitan Washington area from nonattainment to attainment for carbon monoxide and a maintenance plan.

I. Background

The Metropolitan Washington area, was a pre-1990 CO nonattainment area and continued to be designated as nonattainment for CO by operation of law as per section 107(d)(1)(C)(i) of the Clean Air Act Amendments of 1990. The National Ambient Air Quality Standard (NAAQS) for CO is 9.5 parts per million (ppm). CO nonattainment areas can be classified as moderate or serious, based on their design values. Since the Washington CO nonattainment area had a design value of 11.6 ppm (based on 1988 and 1989 data), the area was classified as moderate. The CAA established an attainment date of December 31, 1995, for all moderate CO areas. The Metropolitan Washington area has ambient air quality monitoring data showing attainment of the CO NAAQS from 1989 through 1993. Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on October 4, 1995 the Commonwealth of Virginia submitted a CO redesignation request and a maintenance plan for the Virginia portion of the Metropolitan Washington area. The State of Maryland submitted on October 12, 1995 a CO redesignation request and maintenance plan for the Maryland portion of the Metropolitan Washington area and on October 12, 1995 the District of Columbia submitted a CO redesignation request and maintenance plan. Virginia, Maryland and the District of Columbia submitted evidence that public hearings were held on September 6, 1995 in Virginia, September 15, 1995 in Maryland and September 18, 1995 in the District of Columbia.

II. Evaluation Criteria

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

1. The area must have attained the applicable NAAQS;
2. The area must have a fully approved SIP under section 110(k) of CAA;
3. The air quality improvement must be permanent and enforceable;
4. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA;
5. The area must meet all applicable requirements under section 110 and Part D of the CAA;

III. Review of State Submittal

On October 12, 1995, EPA determined that the information received from the Commonwealth of Virginia, the State of Maryland and the District of Columbia constituted a complete redesignation request under the general completeness criteria of 40 CFR part 51, appendix V, §§ 2.1 and 2.2.

The Virginia, Maryland and District of Columbia redesignation requests for the Metropolitan Washington area meets the five requirements of section 107(d)(3)(E), noted above. The following is a brief description of how the State has fulfilled each of these requirements.

1. Attainment of the CO NAAQS

Virginia, Maryland and the District of Columbia have quality-assured CO ambient air monitoring data showing that the Metropolitan Washington area has met the CO NAAQS. The Virginia, Maryland and District of Columbia requests are based on an analysis of quality-assured CO air monitoring data which is relevant to the maintenance plan and to the redesignation request. To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard per year over at least two consecutive years. The ambient air CO monitoring data for calendar year 1988 through calendar year 1995, relied upon by Virginia, Maryland and the District of Columbia in their redesignation requests, shows no violations of the CO NAAQS in the Metropolitan Washington area. Because the area has complete quality assured data showing no more than one exceedance of the standard per year over at least two consecutive years (1994 and 1995), the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.8 and appendix C). Virginia, Maryland and the District of Columbia have committed to continue monitoring in this area in accordance with 40 CFR part 58.

2. Fully Approved SIP Under Section 110(k) of the CAA

Virginia's, Maryland's and the District of Columbia's CO SIPs are fully approved by EPA as meeting all the requirements of Section 110(a)(2)(I) of the Act, including the requirements of Part D (relating to nonattainment), which were due prior to the date of Virginia's, Maryland's and the District of Columbia's redesignation requests. Maryland's CO SIP was fully approved by EPA on September 19, 1994, at 40 CFR § 52.1070(c)(71), (49 FR 36645). Virginia's CO SIP was approved by EPA on January 25, 1984 at 40 CFR § 52.2420(c)(78), (49 FR 3083). The District's CO SIP approved by EPA on October 3, 1984 at 40 CFR § 52.47(c)(28), (49 FR 39059). The 1990 CAAA required that nonattainment areas achieve specific new requirements depending on the severity of the nonattainment classification. Requirements for the Metropolitan Washington area include the preparation of a 1990 emission inventory with periodic updates, adoption of an oxygenated fuels program, the development of contingency measures, and development of conformity procedures. Each of these requirements added by the 1990 Amendments to the CAA are discussed in greater detail below.

Consistent with the October 14, 1994 EPA guidance from Mary D. Nichols entitled "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," EPA is not requiring full approval of a Part D NSR program by Virginia, Maryland and the District of Columbia as a prerequisite to redesignation to attainment. Under this guidance, nonattainment areas may be redesignated to attainment notwithstanding the lack of a fully-approved Part D NSR program, so long as the program is not relied upon for maintenance. Because the Metropolitan Washington area is being redesignated to attainment by this action, Virginia's, Maryland's and the District of Columbia's Prevention of Significant Deterioration (PSD) requirements will be applicable to new or modified sources in the Metropolitan Washington area. All three States have been delegated PSD authority (See § 52.499 District of Columbia, 43 FR 26410, June 19, 1978, as amended 45 FR 52741, August 7, 1980; § 52.1116 Maryland, 45 FR 52741, August 7, 1980, as amended 47 FR 7835, February 23, 1982; § 52.2448 Virginia 39 FR 7284, February 25, 1974.)

A. Emission Inventory

On March 1994 Maryland submitted a 1990 CO base year inventory to EPA for review and approval. On November 1, 1993 and April 3, 1995, Virginia submitted a 1990 CO base year emissions inventory to EPA for review and approval. On January 13, 1994 the District of Columbia submitted a 1990 CO base year emissions inventory to EPA for review and approval. This inventory was used as the basis for calculations to demonstrate maintenance. Virginia's, Maryland's and the District of Columbia's submittal contains the detailed inventory data and summaries by source category. Each of the State's submittals also contains information related to how it comported with EPA's guidance, and which model and emission factors were used (note, the MOBILE 5a model was used), how

vehicle miles travelled (VMT) data was generated, and other technical information verifying the emission inventory. A summary of the base year and projected maintenance year inventories are shown in the following table in this section.

Section 172(c)(3) of the CAA requires that nonattainment plan provisions include a comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Maryland, Virginia and the District of Columbia included the requisite inventory in the CO SIP. The base year for the inventory was 1990, using a three month CO season of November 1990 through January 1991.

Stationary point sources, stationary area sources, on-road mobile sources, and nonroad mobile sources of CO were included in the inventory. Stationary sources with emissions of greater than 100 tons per year were also included in the inventory.

The following list presents a summary of the CO peak season daily emissions estimates in tons per winter day by source category:

WINTERTIME CO EMISSIONS

[Tons per day]

State	Mobile sources	Area sources	Point (stationary) sources
Virginia	288.55	9.89	.92
Maryland	1161.34	71.36	4.61
District of Columbia ..	410.30	18.08	3.32

Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

Section 110(k) of the CAA sets out provisions governing the EPA's review of base year emission inventory submittals in order to determine approval or disapproval under section 187(a)(1). The EPA is granting approval of the Virginia, Maryland and District of Columbia 1990 base year CO emissions inventories submitted on November 11, 1994 and April 3, 1995, March 21, 1994 and January 13, 1994 respectively, based on the EPA's technical review of the CO inventory. For further details, the reader is referred to the Technical Support Document, which is available for review at the addresses provided above.

B. Oxygenated Gasoline

Section 211(m) of the CAA requires that each State in which there is located a CO nonattainment area with a design value of 9.5 ppm or above based on data for the 2-year period of 1988 and 1989 shall submit a SIP revision which requires the implementation of an oxygenated gasoline program in the Consolidated Metropolitan Statistical Area (CMSA) in which the nonattainment area is located. The Metropolitan Washington area has a design value above 9.6 ppm based on 1988 and 1989 data and consequently was subject to the requirement to adopt an oxygenated fuel program. Virginia, Maryland and the District of Columbia submitted oxygenated gasoline SIP revisions for the Metropolitan Washington CMSA to EPA on November 8, 1993, November 13, 1992 and October 22, 1993, respectively. EPA approved the SIP revisions for Virginia and Maryland on April 15, 1994 and June 6, 1994 respectively. As noted in the Virginia, Maryland and District of Columbia redesignation requests, the States intend to relegate the oxygenated fuel program to contingency status upon EPA's approval of their redesignation requests. By September 1, 1997 Virginia commits to adopt and submit to EPA an oxygenated fuel regulation that will be effective at the beginning of the next control period upon a monitored violation of the CO NAAQS (two or more exceedances of the CO NAAQS in a single calendar year). By January 1996, Maryland commits to adopt and submit to EPA an oxygenated fuel regulation that will be effective at the beginning of the next control period upon a monitored violation of the CO NAAQS (two or more exceedances of the CO NAAQS in a single calendar year). EPA took a limited approval/limited disapproval action of the District of Columbia's oxygenated fuels SIP. The District's regulations at 20 District of Columbia Municipal Regulations Chapter 1, Section 199—definitions was deficient in that it lacks the following: A definition for the terms "carriers; a sampling procedure; and procedures for the calculation of oxygenated content in the gasoline sampled. With approval of the redesignation request the oxygenated fuels program will only be relied upon as a contingency measure. For purposes of section 175A, a state is not required to have fully adopted contingency measures that will take effect without further action by the State in order for the maintenance plan to be approved. However, as stated above, the contingency plan is considered an enforceable part of the SIP and should ensure that the contingency measures are adopted expediently once they are triggered. The plan needs to identify the measure to be adopted and a schedule and procedure for adoption and implementation. For these reasons, the District can correct the deficiency subject to the approval of the District's oxygenated fuels SIP at 40 CFR part 52, § 52.472, (published at 60 FR 5134 on January 26, 1995) when it submits the revised regulation as a contingency measure. EPA's January 26, 1995 limited approval/limited disapproval of the District's oxygenated fuels SIP also initiated an 18-month sanctions clock under section 179 of the Act. By this action to move the oxygenated fuels program into the contingency measure portion of the maintenance plan, the sanction clock is no longer applicable. By December 1995, the District of Columbia commits to adopt and submit to EPA an oxygenated fuel regulation that will be effective at the beginning of the next control period upon a monitored violation of the CO NAAQS (two or more exceedances of the CO NAAQS in a single calendar year), and correct the deficiencies previously identified by EPA in the January 26, 1995 rulemaking.

In its demonstration of maintenance, described below, the States have shown that oxygenated gasoline in the Metropolitan Washington CMSA is not necessary for continued maintenance of the CO NAAQS. Consequently, by this action, EPA is approving Virginia, Maryland and the District of Columbia's use of oxygenated gasoline as a contingency measure for the Metropolitan Washington area.

C. Conformity

Under section 176(c) of the CAA, states were required to submit revisions to their SIPs that include criteria and procedures to ensure that Federal actions conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as all other Federal actions ("general conformity"). Congress provided for the State revisions to be submitted one year after the date of promulgation of final EPA conformity regulations. EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and final general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that the States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to § 51.396 of the transportation conformity rule

and § 51.851 of the general conformity rule, the Commonwealth of Virginia, State of Maryland and the District of Columbia were required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, Virginia, Maryland and the District of Columbia were required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Maryland, Virginia and the District of Columbia submitted transportation conformity SIP revisions to EPA on May 15, 1995; May 16, 1995; and, May 15, 1995, respectively. Furthermore, Virginia, Maryland and the District of Columbia have all submitted on May 15, 1995 SIP revisions for general conformity. Although this redesignation request was submitted to EPA after the due dates for the SIP revisions for transportation conformity [58 FR 62188] and general conformity [58 FR 63214] rules, EPA believes it is reasonable to interpret the conformity requirements as not being applicable requirements for purposes of evaluating the redesignation request under section 1079d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act continues to apply to areas after redesignation to attainment. Therefore, the State remains obligated to adopt the transportation and general conformity rules even after redesignation and would risk sanctions for failure to do so. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and Part D, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in adopting State rules does not relieve an area from the obligation to implement conformity requirements.

Because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if State rules are not yet adopted, EPA believes it is reasonable to view these requirements as not being applicable requirements for purposes of evaluating a redesignation request.

Under this policy, EPA believes that the CO redesignation request for the Washington area may be approved notwithstanding the lack of approved state transportation and general conformity rules.

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

EPA approved Virginia's, Maryland's and the District of Columbia's CO SIPs under the 1977 CAA. Emission reductions achieved through the implementation of control measures contained in that SIP are enforceable. These measures were: The Federal Motor Vehicle Control Program, the basic automobile inspection and maintenance program (I/M), Federal Reformulated Gasoline Program, Tier I controls on new vehicles, Low Emission Vehicles (LEV) (in Maryland and Washington, DC only), State II Vapor Recovery, Evaporative Emissions Control Program, and On-Board Diagnostics Controls.

As discussed above, the State initially attained the NAAQS in 1988 with monitored attainment through 1993. This indicates that the improvements are due to the permanent and enforceable measures contained in the 1982 CO SIP. With the exception of the LEV program and on-board diagnostics controls, all these measures are permanent and enforceable because they are either an existing program in the State and part of the federally approved SIP (e.g., basic I/M, stage II vapor recovery) or are a federally implemented program (e.g., reformulated gasoline, FMVCP, or Tier I controls on new vehicles).

The Commonwealth of Virginia and the State of Maryland and the District of Columbia have demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to local economic downturn. EPA finds that the combination of certain existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed the area to attain the NAAQS.

4. Fully Approved Maintenance Plan Under Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment.

The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. In this notice, EPA is approving the State of Virginia's, Maryland's and the District of Columbia's maintenance plans for the Metropolitan Washington area because EPA finds that Virginia's, Maryland's, and District of Columbia's submittal meets the requirements of section 175A.

A. Attainment Emission Inventory

As previously noted, on March 1994, November 11 and 30, 1992 and January 7, 1993, Maryland, Virginia and the District of Columbia respectively submitted a 1990 base year emissions inventory to EPA for review and approval. The inventory includes emissions from area, stationary, and mobile sources using 1990 as the base year for calculations.

The State submittal contains the detailed inventory data and summaries by county and source category. The comprehensive base year emissions inventory was submitted in the National Emission Data System format. This inventory was prepared in accordance with EPA guidance.

Although the 1990 inventory can be considered representative of attainment conditions because the NAAQS was not violated during 1990, Virginia, Maryland and the District of Columbia established CO emissions for the attainment year, as well as two forecast years out to the year 2010 (2007 and 2010) in their redesignation request. These estimates were derived from the State's 1990 emissions inventory. The state projected emissions for the end of the maintenance period using appropriate growth factors, consistent with EPA guidance. To project future emissions from mobile sources, MOBILE5a was used to assess the benefits gained from federally mandated control measures. The control programs assumed are listed in Section III. Stationary source emissions were projected using the 1990 base year inventory and multiplying with EGAS factors. The area source future emissions were projected using the 1990 base year inventory and multiplying the inventory with household, population, and employment growth factors from the national Capital Region Transportation Planning Board (TPB) Round 5.1 forecasting system.

B. Demonstration of Maintenance-Projected Inventories

Total CO emissions were projected from 1990 base year to 2010. These projected inventories were prepared in accordance with EPA guidance. Virginia, Maryland and the District of Columbia will not implement the Oxygenated Fuel program in the Metropolitan Washington CMSA unless a violation is measured. The projections show that calculated CO emissions, assuming no oxygenated fuels program, are not expected to exceed the level of the base year inventory during this time period. Therefore, it is anticipated that the Metropolitan Washington area will maintain the CO standard without the program, and the oxygenated fuel program would not need to be implemented following redesignation, except as a contingency measure.

C. Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Metropolitan Washington area depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. In addition, comprehensive reviews will be conducted periodically of the factors used to develop the attainment inventories and those used to project CO emissions levels for 1995 and 2007. If any of the localities find significant differences between actual and projected growth, updated emission inventories will be developed to compare with the projections.

D. Contingency Plan

The level of CO emissions in the Metropolitan Washington area will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Section 175(A)(d) of the CAA requires that the contingency provisions include a requirement that the State implement all measures contained in the SIP prior to redesignation. Therefore, Virginia, Maryland and the District of Columbia have provided contingency measures with a schedule for implementation in the event of a future CO air quality problem. The plan contains triggering mechanisms to determine when contingency measures are needed.

The Virginia, Maryland and District of Columbia contingency plan triggers will be a violation of the CO NAAQS. By September 1, 1997 Virginia commits to adopt and submit to EPA an oxygenated fuel regulations that will be effective at the beginning of the next control period upon a monitored violation of the CO NAAQS (two or more exceedances of the CO NAAQS in a single calendar year). By January 1996, Maryland commits to adopt and submit to EPA a oxygenated fuel regulations that will be effective at the beginning of the next control period upon a monitored violation of the CO NAAQS (two or more exceedances of the CO NAAQS in a single calendar year). By December 1995, the District of Columbia commits to adopt and submit to EPA a oxygenated fuel regulations that will be effective at the beginning of the next control period upon a monitored violation of the CO NAAQS (two or more exceedances of the CO NAAQS in a single calendar year). EPA finds that the contingency measure provided in the Virginia, Maryland and the District of Columbia submittals meet the requirements of section 175A(d) of the CAA.

E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

5. Meeting Applicable Requirements of Section 110 and Part D

In Section III.2. above, EPA sets forth the basis for its conclusion that Virginia, Maryland and the District of Columbia have a fully approved SIP which meets the applicable requirements of Section 110 and Part D of the CAA.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective March 15, 1996 unless, within 30 days of publication, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on March 15, 1996.

Final Action

EPA is approving the Metropolitan Washington area CO maintenance plan because it meets the requirements set forth in section 175A of the CAA. In addition, the Agency is approving the request and redesignating the Metropolitan Washington CO area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA is also approving Virginia's, Maryland's and the District of Columbia's 1990 base year CO emissions inventory for the Metropolitan Washington CMSA. 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 a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective March 15, 1996 unless, by February 29, 1996 adverse or critical comments are received. If the EPA receives such comments, this action will be withdrawn 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 this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective March 15, 1996.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit

enterprises, and government entities with jurisdiction over populations of less than 50,000.

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

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

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

The CO SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the CO NAAQS. This final redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the CO emission limitations and restrictions contained in the approved CO SIP. Changes to CO SIP regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of non-implementation (section 179(a) of the CAA) and in a SIP deficiency call made pursuant to sections 110(a)(2)(H) and 110(k)(2) of the CAA.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, it does not have any economic impact on any small entities. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 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 April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control.

Dated: October 23, 1995.

Stanley Laskowski,

Acting Regional Administrator, Region III.

Chapter I, title 40 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart J—District of Columbia

2. Section 52.470 is amended by adding paragraph (c)(36) to read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) * * *

(36) The carbon monoxide redesignation and maintenance plan for the District of Columbia submitted by the District of Columbia Department of Consumer and Regulatory Affairs on October 12, 1995, as part of the District of Columbia SIP. The emission inventory projections are included in the maintenance plan.

(i) Incorporation by reference.

(A) Letter of October 12, 1995 from the District of Columbia Department of Consumer and Regulatory Affairs requesting the redesignation and submitting the maintenance plan.

(B) Maintenance Plan for the Metropolitan Washington Carbon Monoxide Nonattainment Area adopted on September 20, 1995.

(ii) Additional material.

(A) Remainder of October 12, 1995 State submittal.

§ 52.472 [Amended]

2a. Section 52.472 is amended by removing and reserving paragraph (e).

3. Section 52.474 is added to read as follows:

§ 52.474 1990 Base Year Emission Inventory for Carbon Monoxide

EPA approves as a revision to the District of Columbia Implementation Plan the 1990 base year emission inventory for the Washington Metropolitan Statistical Area, submitted by Director, District of Columbia Consumer and Regulatory Affairs, on January 13, 1994 and October 12, 1995. This submittal consist of the 1990 base year stationary, area and off-road mobile and on-road mobile emission inventories in the Washington Statistical Area for the pollutant, carbon monoxide (CO).

Subpart V—Maryland

4. Section 52.1070 is amended by adding paragraph(c)(118) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(118) The carbon monoxide redesignation and maintenance plan for the Counties of Montgomery and Prince George, Maryland submitted by the Maryland Department of the Environment on October 12, 1995, as

part of the Maryland SIP. The emission inventory projections are included in the maintenance plan.

(i) Incorporation by reference.

(A) Letter of October 12, 1995 from the Maryland Department of the Environment requesting the redesignation and submitting the maintenance plan.

(B) Maintenance Plan for the Maryland portion of the Metropolitan Washington Carbon Monoxide Nonattainment Area adopted on September 20, 1995.

(ii) Additional material.

(A) Remainder of October 12, 1995 State submittal.

5. Section 52.1075 is amended by redesignating existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.1075 1990 Base Year Emission Inventory for Carbon Monoxide

* * * * *

(b) EPA approves as a revision to the Maryland Implementation Plan the 1990 base year emission inventory for the Washington Metropolitan Statistical Area, submitted by Secretary, Maryland Department of the Environment, on March 21, 1994 and October 12, 1995. This submittal consist of the 1990 base year stationary, area and off-road mobile and on-road mobile emission inventories in the Washington Statistical Area for the pollutant, carbon monoxide (CO).

Subpart VV—Virginia

6. Section 52.2420 is amended by adding paragraphs (c)(107) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(107) The carbon monoxide redesignation and maintenance plan for the Counties of Arlington and Alexandria, Virginia submitted by the Virginia Department of Environmental Quality on October 4, 1995, as part of the Virginia SIP. The emission inventory projections are included in the maintenance plan.

(i) Incorporation by reference.

(A) Letter of October 4, 1995 from the Virginia Department of Environmental Quality requesting the redesignation and submitting the maintenance plan.

(B) Maintenance Plan for the Virginia portion of the Metropolitan Washington Carbon Monoxide Nonattainment Area adopted on September 20, 1995.

(ii) Additional material.

(A) Remainder of October 4, 1995 State submittal.

7. Section 52.2425 is added to read as follows:

§ 52.2425 1990 Base Year Emission Inventory for Carbon Monoxide.

EPA approves as a revision to the Virginia Implementation Plan the 1990 base year emission inventory for the Washington Metropolitan Statistical Area, submitted by Director, Virginia Department of Environmental Quality, on November 1, 1993, April 3, 1995 and October 12, 1995. This submittal consist of the 1990 base year stationary, area and off-road mobile and on-road mobile emission inventories in the Washington Statistical Area for the pollutant, carbon monoxide (CO).

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Section 107 Attainment Status Designations

9. In § 81.309, the table for "District of Columbia-Carbon Monoxide" is amended by revising the entry for the "Washington Area Entire Washington Area" to read as follows:

§ 81.309 District of Columbia.

* * * * *

DISTRICT OF COLUMBIA-CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Washington Area:				
Washington Entire Area.		Attainment		

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

* * * * *

10. In § 81.321, the table for "Maryland-Carbon Monoxide" is amended by revising the entry for "Montgomery County" and for "Prince George's County" to read as follows:

§ 81.321 Maryland.

* * * * *

MARYLAND-CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
*	*	*	*	*
Washington Area:				
Montgomery County (part) Election Districts 4, 7, 13		Attainment		
Prince George's County (part) Election Districts 2, 6, 12, 16, 17, 18		Attainment		
*	*	*	*	*

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

* * * * *

11. In § 81.347, the table for "Virginia-Carbon Monoxide" is amended by revising the entry for "Alexandria" and for "Arlington County" to read as follows:

§ 81.347 Virginia.

* * * * *

VIRGINIA-CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Washington area:				
Alexandria		Attainment		
Arlington County		Attainment		
* * * * * * *				

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

* * * * *

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BILLING CODE 6560-50-P

40 CFR Part 70

[KS001; AD-FRL-5407-8]

Clean Air Act (CAA) Final Full Approval of Operating Permits Programs; State of Kansas, and Delegation of 112(l) Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is fully approving the operating permits program submitted by the state of Kansas for the purpose of complying with Federal requirements for an approvable state program to issue operating permits to all major stationary sources and certain other sources. EPA is also approving, under section 112(l), the state program for accepting delegation of section 112 standards to enforce air toxics regulations.

EFFECTIVE DATE: February 29, 1996.

ADDRESSES: Copies of the state's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551-7603.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act ("the Act")), and implementing regulations at 40 Code of Federal Regulations (CFR) Part 70, require that states develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the Part 70 regulations, which together outline criteria for approval or disapproval.

On July 3, 1995, EPA proposed full approval of the operating permits program for Kansas (60 FR 34493). No public comments were received. In this notice, EPA is taking final action to promulgate full approval of the operating permits program for the state of Kansas, including delegation of 112(l) authority.

II. Final Action and Implications

A. Fulfillment of EPA Requested Modifications

The July 3, 1995, **Federal Register** notice proposing approval of the Kansas program discussed three areas of the Kansas program which required additional action prior to qualifying for full approval. The state needed to: (1) modify certain regulations to ensure that they were consistent with Part 70, (2) submit an Implementation Agreement (I.A.) which describes certain provisions for state implementation of the Part 70 program, and (3) submit an insignificant activities list. The July 3, 1995, **Federal Register** notice and the Technical Support Document for the notice describe in detail the changes in the program required for full approval. The reader should refer to those documents for a complete description of the changes required by Kansas.

The state of Kansas has satisfied the requirements for full program approval as described in the notice proposing approval. The required revisions were made to rules K.A.R. 28-19-7, K.A.R. 28-19-511, K.A.R. 28-19-512, and K.A.R. 28-19-518. The rule revisions were adopted by the Secretary of the Kansas Department of Health and Environment (KDHE) on November 14, 1995, and were effective December 8, 1995. The state also submitted an I.A. which satisfactorily addresses the deficiencies described in the notice which were to be addressed in the I.A. The state also submitted an adequate insignificant activities list.

The I.A. includes a commitment that the permitting agency will not exercise its authority under state law to grant a variance from the duty to comply with a federally enforceable Part 70 permit, except where such relief is granted through procedures allowed by Part 70. Therefore, the state variance provision is not part of the Kansas Title V program.

B. Final Action

The EPA is promulgating full approval of the operating permits program submitted to EPA by the state of Kansas on December 12, 1994, with supplemental submissions on April 7 and 17, 1995; November 14, 1995; and December 13, 1995. Among other things, the state of Kansas has demonstrated its program meets the minimum elements of a state operating permits program as specified in 40 CFR Part 70.

1. Regulations. This approval includes the following regulations adopted by the KDHE as they relate to the Kansas Class I operating permit program: K.A.R. 28-19-7, General provisions, definitions; K.A.R. 28-19-202, Annual emissions fee; K.A.R. 28-19-204, General provisions, permit issuance and modification, public participation; K.A.R. 28-19-400 through -404, General permits; K.A.R. 28-19-500 through -502, Operating permits; and K.A.R. 28-19-510 through -518, Class I operating permits.

2. Jurisdiction. The scope of the Part 70 program approved in this notice applies to all Part 70 sources (as defined in the approved program), within the state of Kansas, except any sources of air pollution over which an Indian Tribe has jurisdiction. See 59 FR 55813, 55815-18 (November 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian Tribe, Band, Nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians, because of their status as Indians." See section 302(r) of the CAA;