nature of the federal-state relationship under the CAA, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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 rule 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 for promulgation 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 proposes to approve pre-existing requirements under state or local law, and does not propose to impose new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, would result from this action, if approved.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a major rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

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 August 8, 1997. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 27, 1997.

Chuck Clarke,

Regional Administrator.

[FR Doc. 97–14853 Filed 6–6–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OR 56–7271; FRL–5837–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA invites public comment on its proposed redesignation of the Portland, Oregon, carbon monoxide (CO) nonattainment area, which is located in parts of Multnomah, Washington, and Clackamas Counties in the State of Oregon, from nonattainment to attainment. EPA further proposes to approve the CO Maintenance Plan as a revision to the Oregon Department of Environmental Quality's (Oregon's) State Implementation Plan (SIP) which was submitted with Oregon's redesignation request. Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if the State demonstrates full compliance with the redesignation requirements set forth in section 107(d)(3)(E) of the CAA.

EPA is proposing to approve the submitted Maintenance Plan as meeting the requirements of section 175A of the CAA; the 1990 base year emissions inventory as meeting the requirements of section 187(a)(1) of the CAA; and the 1991 attainment year (periodic) emissions inventories as meeting the requirements of section 187(a)(5) of the CAA.

DATES: Comments must be received in writing and postmarked on or before July 9, 1997.

ADDRESSES: Written comments should be addressed to Montel Livingston, SIP Manager, Office of Air Quality, M/S OAQ–107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of Oregon's submittals are available for public review during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, M/S OAQ–107, 1200 Sixth Avenue, Seattle, Washington 98101; and the Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204–1390, telephone (503) 229–5696.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth of the EPA Region 10 Office of Air Quality at (206) 553–7369.

SUPPLEMENTARY INFORMATION:

I. Background

On March 15, 1991, the Governor of Oregon recommended that the Portland portion of the Portland-Vancouver Air Quality Maintenance Area be designated as nonattainment for CO as required by section 107(d)(1)(A) of the 1990 Clean Air Act Amendments (CAAA) (Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671(q)). The area was designated nonattainment and classified as ''moderate'' with a design value less than or equal to 12.7 parts per million (ppm) under the provisions outlined in sections 186 and 187 of the CAA. (See 56 FR 56694, November 6, 1991, codified at 40 CFR 81.338). On September 29, 1995, EPA approved the separation of the Portland-Vancouver CO nonattainment area into two distinct nonattainment areas, effective November 28, 1995. Because the Portland area had a design value of 9.8 ppm (based on 1988–1989 data), the area was considered moderate. The CAA established an attainment date of December 31, 1995, for all moderate CO areas. The Portland area has ambient monitoring data showing attainment of the CO National Ambient Air Quality Standard (NAAQS) since 1989. On August 30, 1996, Oregon submitted a CO redesignation request and a CO Maintenance Plan for the Portland area. Oregon submitted evidence that public hearings were held on May 22, 1996, in

Portland, Oregon, and on May 23, 1996, in Tigard, Oregon.

II. Evaluation Criteria

Section 107(d)(3)(E) of the CAAA 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 the 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; and
5. The area must meet all applicable requirements under section 110 and Part D of the CAA.

III. Review of State Submittal

On September 18, 1996, EPA Region 10 determined that the information received from Oregon constituted a complete redesignation request under the general completeness criteria of 40 CFR part 51, appendix V, 2.1 and 2.2. The Oregon redesignation request for the Portland area meets the five requirements of section 107(d)(3)(E), noted above. The following is a brief description of how Oregon fulfilled each of these requirements.

1. Attainment of the CO NAAQS

Quality-assured CO ambient air monitoring data shows that the Portland area has met the CO NAAQS. The Oregon request to redesignate the Portland CO nonattainment area to attainment is 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 1990 through calendar year 1995, relied upon by Oregon in its redesignation request, shows no violations of the CO NAAQS in the Portland area. The last exceedance of the CO NAAQS in the Portland CO nonattainment area occurred on February 1, 1991. 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, the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.8 and appendix C). Oregon has committed to continue monitoring in this area in accordance with 40 CFR part 58. In addition, Oregon has committed to conduct saturation studies every four years to identify locations of peak CO concentrations and to periodically reassess whether the CO monitoring network represents worst case concentrations.

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

With the exception of Oregon's 1990 base year emissions inventory, which is proposed for approval herein, Oregon's CO SIP is fully approved by EPA as meeting all the requirements of section 110(a)(2)(I) of the CAA, including the requirements of Part D (relating to nonattainment), which were due prior to the date of Oregon's redesignation request.

The 1990 CAAA required that nonattainment areas meet specific new requirements depending on the severity of the nonattainment classification. Requirements for the Portland area included a vehicle inspection and maintenance program, the preparation of a 1990 emissions 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 is discussed in greater detail below. Final approval of this redesignation request is contingent upon final action by EPA to approve the 1990 base year emissions inventory, submitted by Oregon on August 30, 1996, along with the redesignation request and Maintenance Plan.

A. Emissions Inventories (Base Year and Periodic)

Under section 187(a)(1) of the CAA, States are required to submit, by November 15, 1992, a base year CO inventory for moderate CO nonattainment areas that represents actual emissions in the CO season. 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. The base year for the inventory is 1990. Stationary point, stationary area, on-road mobile, and non-road mobile sources of CO are included in the inventory. This inventory addresses actual CO emissions for the area during the peak CO season, which reflects the months when peak CO air quality concentrations occur. In Portland, the peak CO season is November 1 through the end of February. All required sources were included in the inventory. Stationary sources with emissions of 100 tons or greater per year were included in the point source category. Stationary sources with emissions of 100 tons or greater per year which are outside of the CO nonattainment area but within 25 miles of the Portland CO nonattainment area boundary (coincident with the Metro boundary) have also been included. Stationary sources with emissions less than 100 tons per year were included in the area source category. The following list presents a summary of the 1990 CO peak season daily emissions estimates in tons per winter day by source category: Point Sources: 64.40 tons per day; Area Sources: 215.00 tons per day; Mobile On-Road Sources: 921.71 tons per day; Mobile Non-Road Sources: 66.96 tons per day; Total Sources: 1268.07 tons per day. Available guidance for preparing emissions inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

Section 187(a)(5) of the CAA also requires that States submit, for moderate CO nonattainment areas, periodic inventories that represent actual emissions; the first periodic inventory is due no later than September 30, 1995, with subsequent periodic inventories submitted every three years thereafter until the area is redesignated to attainment. Oregon submitted an attainment year emissions inventory for 1991 which meets the requirements for the periodic inventory. This inventory was developed in the same manner as the 1990 base year. CO peak season daily emissions estimates in tons per winter day by source category are: Point Sources: 57.97 tons per day; Area Sources: 205.50 tons per day; Mobile On-Road Sources: 906.11 tons per day; Mobile Non-Road Sources: 67.55 tons per day; Total Sources: 1237.13 tons per day.

The following chart compares CO season daily emissions for 1990 and 1991:

DAILY EMISSIONS (POUNDS PER DAY)

Category	Base year 1990	Attainment year 1991
Point Sources	128,803	115,946
Area Sources	430,003	410,992
On-road Mobile Sources	1,843,414	1,812,224
Non-road Mobile Sources	133,911	135,102
Total	2,536,132	2,474,264

EPA is proposing to approve the 1990 base year emissions inventory and the 1991 attainment year (periodic) emissions inventory as meeting the

requirements of sections 187(a)(1) and 187(a)(5) of the CAA. Oregon has provided acceptable documentation of quality assurance and has clearly identified the methodologies used in determining the emissions for each source category. References from which emission and growth factors were derived were clearly identified.

B. Oxygenated Gasoline

Motor vehicles are significant contributors of CO emissions. An important measure toward reducing these emissions is the use of cleaner-burning oxygenated gasoline. Extra oxygen, contained within the oxygenate in the fuel, enhances fuel combustion and helps to offset fuel-rich operating conditions, particularly during vehicle starting, which are more prevalent in the winter.

Section 211(m) of the CAA requires that, for CO nonattainment areas with a design value of 9.5 or greater ppm based on data for the 2-year period of 1988 and 1989, a SIP revision be submitted for an oxygenated fuel program for the area. The oxygenated fuel requirement must apply to all fuel refiners or marketers who sell or dispense gasoline in the Metropolitan Statistical Area (MSA) or in the Consolidated Metropolitan Statistical Area (CMSA) in which the nonattainment area is located. The Portland area has a design value above 9.5 ppm based on 1988 and 1989 data and, consequently, Oregon was subject to the requirement to adopt an oxygenated fuel program for the Portland area.

Oregon submitted an oxygenated fuel SIP revision [1] for the Portland CO nonattainment area to EPA on November 16, 1992. The oxygenated gasoline program is one in which all oxygenated gasoline must contain an average minimum oxygen content of 2.7 percent by weight of oxygen. Under section 211(m)(4) of the CAA, EPA also issued requirements for the labeling of gasoline pumps used to dispense oxygenated gasoline, as well as guidelines on the establishment of an appropriate control period. These labeling requirements and control period guidelines may be found in the **Federal Register**, 57 FR 47849, dated October 20, 1992. Oregon's oxygenated gasoline regulation requires a 2.7 percent average oxygen content within a four-county Control Area (Clackamas, Multnomah, Washington, and Yamhill Counties) which includes the Portland CO nonattainment area. The regulation also contains the necessary labeling regulations, enforcement procedures, and oxygenate test methods. EPA approved Oregon's oxygenated fuel SIP revision on February 15, 1994 (59 FR 7222).

C. Conformity

Under section 176(c) of the CAA, States are 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 their SIPs for areas designated nonattainment or subject to a Maintenance Plan approved under CAA section 175A. Pursuant to 40 CFR 51.396 of the transportation conformity rule, Oregon was 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, pursuant to 40 CFR 51.851 of the general conformity rule, Oregon was required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the federal rule by December 1, 1994. Oregon submitted its transportation conformity SIP revision to EPA on April 14, 1995. EPA approved this SIP revision on May 16, 1996. Oregon submitted its general conformity SIP revision to EPA on September 27, 1995, but it has not yet been approved by EPA.

Although this redesignation request was submitted to EPA after the due date for the SIP revisions for general conformity 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 107(d). 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 CAA continues to apply to areas after redesignation to attainment. Therefore, Oregon remains obligated to adopt the 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.

Therefore, on April 1, 1996, EPA modified its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) concerning the applicable requirements for purposes of reviewing a carbon monoxide redesignation request (61 FR 2918, January 30, 1996). Under this new policy, for the reasons just discussed, EPA believes that the CO redesignation request for the Portland area may be approved notwithstanding the lack of approved State general conformity rules.

For transportation conformity purposes, the on-road emission totals outlined in the chart below for each year will be designated as the emissions budget for the Portland CO nonattainment/maintenance area. Oregon has also developed emissions budgets for two Sub-Areas, the Central City Transportation Management Plan (CCTMP) Sub-Area and the 82nd Avenue Corridor Sub-Area.

[1] The Maintenance Plan being proposed for approval herein relies on the continuation of oxygenated fuel in the Portland CO nonattainment area for the ten years of the maintenance period after redesignation of the Portland CO nonattainment area to attainment.

PORTLAND CO TRANSPORTATION EMISSION BUDGETS

[Thousand pounds per winter day]

Year	1991	1995	1997	2001	2003	2007
CO Nonattainment Area = Metro Boundary						
Budget	1812	1217	1076	875	825	775
CCTMP Sub-Area						
Budget	191	123	107	84	78	70
82nd Avenue Corridor Sub-Area						
Budget	12	7	6	5	4	4

D. Inspection and Maintenance

Section 187(a)(4) requires that the applicable CO implementation plan include the vehicle inspection and maintenance (I/M) program described in section 182(a)(2)(B). This requires that Oregon implement at least a basic I/M program. Oregon submitted its basic I/M SIP revision to EPA on November 15, 1993. EPA approved this SIP revision on September 9, 1994. Oregon submitted an enhanced I/M SIP revision to EPA on December 12, 1996. EPA approved this on April 30, 1997. *See* 62 FR 27204.

E. Contingency Measures

States containing CO nonattainment areas with design values of 12.7 ppm or less were required to submit, among other things, contingency measures to satisfy the provisions under section 172(c)(9). These provisions require contingency measures to be implemented in the event that an area failed to reach attainment by the applicable attainment date, December 31, 1995. The SIP revision for the contingency measures portion of the Attainment Plan was submitted on November 15, 1993. The contingency plan required that oxygenates be supplied at maximum allowable oxygen contents (e.g., 3.5% ethanol and 2.7% methyl tertiary butyl ether (MTBE)). A specified minimum average oxygen content of 2.9% would have been required only if, in subsequent control seasons, the project control area average oxygen content would be less than 3.1% (based on reported oxygenate mix information submitted by the regulated community). EPA approved this SIP revision on June 28, 1994 (59 FR 33202).

F. New Source Review

All moderate CO nonattainment areas with a design value of 12.7 ppm or less were required to submit proposed Part D New Source Review (NSR) programs no later than November 15, 1993, pursuant to sections 172(b), 172(c)(5), and 173 of the CAA. Oregon submitted revisions to the SIP on November 16, 1992, to meet this requirement. Further revisions were submitted on December 12, 1996. EPA approved these revisions to the SIP on April 30, 1997. *See* 62 FR 27204.

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

Once this action and the enhanced vehicle inspection and maintenance program are approved, EPA will have completed its approval of Oregon's CO SIP (attainment plan). Emission reductions achieved through the implementation of the primary control measures contained in that SIP are enforceable. The primary permanent and enforceable federal measure has been the Federal Motor Vehicle Control Program which has established emission standards for new motor vehicles. Permanent and enforceable SIP measures which have helped improve air quality in the Portland CO nonattainment area are: major New Source Review Program (Lowest Achievable Emission Rate and offsets); basic vehicle inspection and maintenance; improved public transit; carpool matching program and carpool parking program in downtown Portland; traffic flow improvements (ramp metering, computerized signalization, on-street parking limits); City of Portland bicycle parking program; Downtown Portland Air Quality Plan (1980 Updated Downtown Parking and Circulation Policy); and the Downtown Portland Parking Offset Program. Also, the oxygenated fuel program, from its implementation on November 1, 1992, has been and will continue to be, fully enforceable. As discussed above, the Portland area initially attained the NAAQS in 1990 with monitored attainment throughout the 1994–1995 CO season. This indicates that the improvements were due to the permanent and enforceable measures contained in the CO SIP. These improvements were made in spite of rapid population growth in the Portland area since 1991. Oregon has also evaluated Portland area meteorological patterns over the 1985–1994 period and has concluded that recent compliance with CO standards is not attributable to favorable meteorology.

During EPA's review of a SIP revision involving Oregon's statutory authority, a problem was detected which affected the enforceability of point source permit limitations. Even though the SIP does not contain additional point source controls to attain the standard, existing and federally approved point source emission limitations are relied upon to maintain and demonstrate attainment with the CO NAAQS. EPA determined that, because the five-day advance notice provision required by ORS.126(1) (1991) bars civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate enforcement authority the State must demonstrate to obtain SIP approval, as specified in section 110 of the CAA and 40 CFR 51.230. Accordingly, the requirement to provide such notice would preclude federal approval of a CO nonattainment area SIP revision. EPA notified Oregon of the deficiency. To correct the problem, the Governor of Oregon signed into law new legislation amending ORS 468.126 on September 3, 1993. This amendment added paragraph 468.126(2)(e) which provides that the five-day advance notice required by ORS 468.126(1) does not apply if the notice requirement will disqualify the State's program from federal approval or delegation. Oregon responded to EPA's understanding of the application of 468.126(2)(e) and agreed that, if federal statutory requirements preclude the use of the five-day advance notice provision, no advance notice will be required for violations of SIP requirements contained in permits.

Therefore, EPA is satisfied that Oregon has 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 a 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 proposing to approve Oregon's Maintenance Plan for the Portland area because EPA finds that Oregon's submittal meets the requirements of section 175A.

A. Attainment Emissions Inventory

On August 30, 1996, Oregon submitted, as part of its redesignation and Maintenance Plan approval request, a comprehensive 1991 Attainment Year inventory of CO emissions for the Portland area. The inventory includes emissions from area, stationary, and mobile sources using 1991 as the base year for calculations.

The Oregon submittal contains the detailed inventory data and summaries by 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 1991 inventory can be considered representative of attainment conditions because the NAAQS was not violated during 1991, Oregon established CO emissions for the attainment year, 1991, as well as for forecast years out to the year 2007. These estimates were derived from Oregon's 1991 emissions inventory. The future emissions estimates are based on assumptions about vehicle miles traveled and economic growth, and on the continuation of the oxygenated fuel program throughout the ten year Maintenance Plan period. Also included in these estimates are, for point sources, production increases both from existing and new facilities.

1991 CO BASE YEAR EMISSIONS INVENTORY, PORTLAND NONATTAINMENT AREA

[Tons per day]

Year	Point	Area	Non-road mobile	On-road mobile	Total
1991	57.97	205.50	67.55	906.11	1237.13

B. Demonstration of Maintenance

i. *Projected Inventories.* Total CO emissions were forecast from 1991 base year out to 2007. These projected inventories were prepared in accordance with EPA guidance. Oregon conducted rollforward analysis for three hotspot monitoring locations, which are the sites of three of the four permanent CO monitors in the Portland CO nonattainment area. Oregon has provided a complete description of the methodology employed, selection of the background concentration, explanation of the CCTMP Worst Case Scenario for the downtown area, calculations, and a summary of the results. Oregon has included the following technical data: allocation of parking for the CCTMP Worst Case Scenario; City of Portland traffic counts; Oregon-conducted speed runs; and Mobile 5a input and output data sheets. Oregon will continue to implement the oxygenated fuel program in the Portland CO nonattainment area throughout the ten year Maintenance Plan period. The projections show that calculated CO emissions, with the oxygenated fuel program in place and operational, are not expected to exceed the level of the base year inventory during this time period. Therefore, it is anticipated that the Portland area will maintain the CO standard throughout the Maintenance Plan period.

PORTLAND CO NONATTAINMENT AREA, CO EMISSIONS FORECAST SUMMARY

[Thousand pounds CO per winter day]

Year	Point	Area	Non-road mobile	On-road mobile	Total
1991	116	411	135	1812	2474
1995	124	382	146	1217	1868
1997	167	392	151	1076	1785
2001	171	405	160	875	1610
2003	173	417	163	825	1577
2007	178	447	169	775	1569

ii. *Transportation Control Measures (TCMs).* TCMs incorporated into the Maintenance Plan fall into two categories: non-funding based TCMs and funding based TCMs. The non-funding based TCMs reduce transportation emissions through land-use requirements and regulatory programs. The funding based TCMs reduce transportation emissions by increasing the supply of transit, bicycle and pedestrian facilities. The funding based TCMs were established in the financially constrained transportation network of Metro's interim federal Regional Transportation Plan (RTP), adopted July 1995, in accordance with the requirements of the federal

Intermodal Surface Transportation Efficiency Act (ISTEA). This network includes only projects that can be supported based on historical funding level trends.

Under the Oregon Administrative Rule (OAR), the funding based TCMs must receive priority funding in Metro's transportation planning process and all TCMs identified in the Maintenance Plan must receive timely implementation. If the TCMs do not receive priority funding and timely implementation, a conformity determination cannot be made for Metro's transportation plans and all regionally significant projects will be held up until a conformity determination can be made. These requirements are specified in Oregon's transportation conformity rules (OAR 340–020–0710 through 340–020–1080). In general, ''priority funding'' means that all State and local agencies with influence over approvals or funding of the TCMs are giving maximum priority to approval of funding of the TCMs over other projects within their control. ''Timely implementation'' means that the TCMs are being implemented consistent with the schedule established in the Maintenance Plan. The determination of whether priority funding and timely implementation have been achieved is made in the context of interagency consultation as specified in the transportation conformity rules.

Identified TCMs may be substituted in whole, or in part, with other TCMs providing equivalent emission reductions. Substitution occurs through consultation with Metro's Transportation Policy Alternatives Committee (TPAC) and Joint Policy Advisory Committee on Transportation (JPACT). Such substitution requires public notice, EQC (Environmental Quality Commission) approval and concurrence from EPA, but does not require a revision to the SIP. Appendix D2–10 of the Maintenance Plan identifies the requirements for TCM substitutions, which EPA is proposing to approve as part of the Maintenance Plan. TCMs in the Maintenance Plan are as follow:

a. Non-funding based Transportation Control Measures: (1) Metro 2040 Growth Concept, which changes typical growth patterns to be less reliant on motor vehicle travel, thereby reducing motor vehicle emissions; and (2) Central City Parking Requirements: key elements of the Zoning Code Amendments [2] [3] related to CO air quality projections are incorporated into the Maintenance Plan. These include maximum parking ratios for new development, requirements for providing structured parking to serve older historic buildings, and other regulations on parking. The downtown parking lid will be transferred to contingency status upon approval of the Maintenance Plan.

Code No.	Code title
1. Incorporated Amendments to City of Portland Chapter 33.510, Central City Plan District	
33.510.261—33.510.261.E (33.510.261.E.1 (a)(1)–(2),b,E.2.a(1)–(2),b)	Parking Site split by subdistrict or parking sector boundaries.
33.510.263—33.510.263.A (33.510.263.A.1.a–c(1)–(4),A.2–4.a–b(1)–(3),A.5–7.a–c).	Parking in the Core Area Growth Parking.
33.510.263.B—(33.510.263.B.1.a–c (1)–(2),B.2–4.a)	Preservation Parking.
33.510.263.E—(33.510.263.E.1.a–b,E.3.a–c)	Residential/Hotel Parking.
33.510.263.F—33.510.263.F.2	RX Zone Parking.
33.510.263.G—33.510.263.G.4—(33.510.263.G.4.a.(1)–(2),G.4.d(1)–(3))	All Parking Surface parking lots.
33.510.264 33.510.264.A (33.510.264.A.1.a–c (1)–(4),A.2.a,A.4.a)	Parking in Lloyd District Growth Parking.
33.510.264.B 33.510.264.B.1.a–c(1)–(2),B.2.a–c,B.4.a c	Preservation Parking.
33.510.264.F	All Parking.
33.510.264.F (33.510.264.F.4.e.(1)–(3))	Surface parking lots.
33.510.265	Parking in the Goose Hollow Subdistrict and Central Eastside Sectors 2 and 3.
33.510.265.A (33.510.265.A.1.a–c,A.2.a,A.4.a)	Growth Parking.
33.510.265.B (33.510.265.B.1.a–c(1)–(4),B.2.a,b) (33.510.265.B.4.a–c)	Preservation Parking.
2. Incorporated Portion of New Chapter 33.808, Central City Parking Review	
33.808.050	Loss of Central City Parking Review Status.
33.808.100 33.808.100.G	General Approval Criteria for Central City Parking Review.
33.808.100.J 33.808.100.J.2.a 33.808.100.M	If the site is in the Core Area.
Map Number	Map Title
3. Incorporated Maps	
510–8	Core and Parking Sectors—EPA.

4. Incorporated Portion of CCTMP Administration Section

Code No.	Code title
VI.D.1.a.(1)–(5)	Administrative Section: Preservation Parking.

[2] The Portland City Council adopted the *Central City Transportation Management Plan (CCTMP), Plan and Policy*, and other supporting documents which include these Zoning Code Amendments, on December 6, 1995. The CCTMP was adopted by Ordinance No. 169535, Resolution 35472, and was effective on January 8, 1996.

[3] The CCTMP is intended to advance a ''buildout'' vision of the Central City Plan to the year 2010 and beyond. The chief implementing mechanism is the Zoning Code Amendments. Although the CCTMP eliminated the ceiling on downtown parking, it provided for the expansion of the system of maximum parking ratios to the entire area of the Central City.

b. Funding based Transportation Control Measures: (1) Increased Transit Service, specifically regional increase in transit service hours averaging 1.5 percent annually; completion of the Westside Light Rail Transit facility; and completion of Light Rail Transit (LRT) in the South/North corridor by the year 2007; and (2) Bicycle and Pedestrian Facilities, including multimodal facilities, an RTP Constrained Bicycle System, and Pedestrian facilities.

C. Verification of Continued Attainment

Oregon will analyze on an annual basis the CO air quality monitoring data to verify continued attainment of the CO NAAQS, in accordance with 40 CFR Part 50 and EPA's Redesignation guidance. This data, along with the previous year's data, will provide the necessary information for determining whether the region continues to attain the NAAQS.

Oregon will prepare updated emissions inventory summaries for 1996, 1999, 2001, 2003, and 2007. These updates will be submitted to EPA Region 10 within 12 months following the end of the periodic emissions inventory calendar year. In preparing the updates, Oregon will review the emission factors, growth factors, rule effectiveness and rule penetration factors, and other significant assumptions used to prepare the emissions forecast. Oregon will verify the factors or adjust them where more accurate information is available. New emission sources will be included in the updates.

Oregon will compare each updated emissions summary to the emissions forecast and the attainment inventories and evaluate any changes which have occurred. If significant changes have occurred, Oregon will, in consultation with EPA Region 10, determine if a more extensive periodic emissions inventory is necessary. If a more extensive inventory is necessary, it will be submitted to EPA within 23 months after the end of the reporting period.

D. Contingency Plan

The level of CO emissions in the Portland area will largely determine the area's ability to stay in compliance with the CO NAAQS in the future. Despite Oregon's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Section 175A(d) of the CAA requires that, when violations of the NAAQS occur, Oregon implement all measures with respect to the control of CO which were contained in the SIP for the area before redesignation of the area as an attainment area. Therefore, Oregon has provided contingency measures in the Maintenance Plan with a schedule for implementation in the event of future exceedances or violations of the CO NAAQS. The plan contains triggering mechanisms to determine when contingency measures are needed.

Oregon has developed a contingency plan which utilizes actual validated CO monitoring results to trigger activation of the CO contingency measures. A two-tiered level of escalating response and contingencies for the Portland CO Contingency Plan, based on risk of violation and actual violation, is proposed as follows:

If monitored (8-hour average) CO levels at a site within the Central City registers a second high concentration equaling or exceeding 90 percent of the NAAQS level (8.1 ppm or greater) during a calendar year period, Oregon will identify a planning group to recommend a strategy for implementation to forestall violations of the NAAQS. Within six months of the validated 90 percent second high CO concentration, the planning group will determine a schedule of selected strategies to either prevent or correct any violation of the 8-hour NAAQS for CO. The contingency strategies to be considered will include, but not be limited to: (1) Increased parking pricing in the Central City; (2) increased funding for transit; (3) congestion pricing on major regional transportation corridors; (4) a trip reduction program; (5) regional mandatory parking ratios; and (6) accelerated implementation of bicycle and pedestrian networks.

If a violation of the CO NAAQS occurs, and is validated by Oregon, the following contingency measures will automatically be implemented: (1) New Source Review requirements for proposed major sources and major modifications in the Maintenance Plan area (and the area of significant air quality impact) will be modified. The requirement to install Best Available Control Technology (BACT) will be replaced with a requirement to install Lowest Achievable Emission Rate (LAER) technology. In addition, the industrial growth allowance established in section 4.51.3.2.3 of the Oregon CO SIP will be eliminated. These requirements will take effect upon validation of the violation. BACT and a growth allowance may be reinstated if provided for in a new Maintenance Plan adopted and approved by EPA; and (2) The downtown parking lid will be reinstated. However, the reinstatement of the downtown parking lid will be implemented only if the violation occurs in the downtown area formerly under the parking lid requirement.

E. Additional Maintenance Plan Commitments

Oregon has incorporated the following commitments into the Maintenance Plan: (1) Coordination with the Southwest Washington Air Pollution Control Authority in Vancouver, Washington, on interstate air quality issues; (2) Submittal of rules to implement the enhanced vehicle inspection program before EPA approval of the Maintenance Plan (refer to previous discussion on the I/M program); (3) Submittal of revisions to the New Source Review regulations before EPA approval of the Maintenance Plan (refer to previous discussion on NSR); (4) Preparation of periodic emissions inventory updates for 1996, 1999, 2001, 2003, and 2007, and submittal of the updates to EPA within 12 months following the end of the periodic emissions inventory calendar year; (5) Submittal of a backup emission reduction measure as a revision to the SIP if the federal Low Emission Vehicle (fedLEV) is delayed beyond 2001. This measure will be presented for adoption by the Oregon Environmental Quality Commission by November 1, 1999; (6) Preparation of reports on activity in the industrial growth allowance program for the periods 1996–1997, 1998–2001, 2002–2003, and 2004–2007, and submittal of those reports to EPA within 12 months following the end of the activity period; and (7) Maintenance of documentation of approved TCM substitutions.

F. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Oregon has agreed to submit a revised maintenance SIP by December 31, 2004. Oregon will develop the next ten year Maintenance Plan (2007–2017) in coordination and conjunction with Metro.

5. Meeting Applicable Requirements of Section 110 and Part D

In section III.2 above, EPA sets forth the basis for its conclusion that Oregon has a fully approved SIP which meets the applicable requirements of section 110 and Part D of the CAA.

IV. This Action

EPA is proposing to approve the Portland area CO Maintenance Plan because it meets the requirements set forth in section 175A of the CAA. In addition, EPA is proposing to redesignate the Portland CO nonattainment area to attainment

because Oregon has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA is also proposing to approve Oregon's 1990 base year and 1991 (periodic) emissions inventories.

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

V. Administrative Review

A. Executive Order 12866

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.

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 proposed redesignation should not be interpreted as authorizing or proposing to authorize Oregon 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 nonimplementation (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.

B. Regulatory Flexibility Act

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.

SIP approvals under section 110 and subchapter I, part D, of the Clean Air Act 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, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-State relationship under the CAA, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 27 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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 rule 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 proposed action 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Authority: 42 U.S.C. 7401–7671q.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 27, 1997.

Chuck Clarke,

Regional Administrator.

[FR Doc. 97–14941 Filed 6–6–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5836–7]

National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions From Wood Furniture Manufacturing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments to final rule.

SUMMARY: This action proposes amendments to the National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions from Wood Furniture Manufacturing Operations promulgated in the **Federal Register** on December 7, 1995 (60 FR 62930). This action proposes to revise the definition of wood furniture component to exclude foam seat cushions not made at a wood furniture manufacturing facility from this definition, and therefore, from the requirements of this national emission standards for hazardous air pollutants (NESHAP). Because the proposed revisions clarify the applicability of the final rule to eliminate potential overlapping requirements with other NESHAP, the EPA does not anticipate receiving adverse comments. Consequently, these proposed revisions also are being issued as a direct final rule in the final rules section of this **Federal Register**. If no significant and timely comments are received, no further action will be taken with respect to this proposal and the direct final rule will become final on the date provided in that action.

DATES: Comments on these proposed changes must be received on or before July 9, 1997. Anyone requesting a public hearing must contact the EPA no later than June 20, 1997. If a hearing is held, it will take place on July 7, 1997 beginning at 10:00 a.m.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) on the proposed changes to