rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 18, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

South Carolina Department of Environment, Health and Natural Resources, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, ext. 4212.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: September 19, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–2584 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[NM28–1–7087; FRL–5423–3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New Mexico; Albuquerque/Bernalillo County; Approval of the Vehicle Inspection and Maintenance Program, Emissions Inventory, and Maintenance Plan; Redesignation of the Nonattainment Area to Attainment; and Carbon Monoxide Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 14, 1995, the Governor of New Mexico submitted a request for redesignation to attainment for the Albuquerque/Bernalillo County carbon monoxide (CO) nonattainment area. This request included a revision to the State Implementation Plan (SIP) for the administration of a vehicle inspection and maintenance (I/M) program, a 1993 emissions inventory for Albuquerque/Bernalillo County, and an attainment maintenance plan. The submission of the revised I/M program was intended to fulfill previously unfulfilled requirements for an I/M program. In this action, the EPA is proposing approval of the Albuquerque/Bernalillo County I/M program, 1993 periodic emissions inventory, and the request for redesignation, because all meet the requirements set forth in the Clean Air Act (Act).

DATES: All written comments must be received by March 18, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the addresses listed below. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza Room 3023, Albuquerque, New Mexico 87102

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Witosky, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION:

I. Background

Albuquerque/Bernalillo County, New Mexico, was designated nonattainment for CO and classified as moderate with a design value below 12.7 parts per million (ppm) (specifically 11.1 ppm), under sections 107(d)(4)(A) and 186(a) of the Act, upon enactment of the Clean Air Act Amendments (CAAA) of 1990 (the Act).[1] Please reference 56 FR 56694 (November 6, 1991) and 57 FR 13498 and 13529 (April 16, 1992). On November 5, 1992, the Governor of New Mexico submitted to the EPA a SIP revision for CO concerning Albuquerque/Bernalillo County that was intended to satisfy the Act's requirements due on November 15, 1992. The Act outlines certain required items to be included in CO SIPs. The required items for the Albuquerque/Bernalillo County CO SIP, due November 15, 1992, included: (1) a comprehensive, accurate, and current inventory of actual emissions from all sources of CO in the nonattainment area (sections 172(c)(3) and 187(a)(1) of the Act); (2) no later than September 30, 1995, and no later than the end of each three year period thereafter, until the area is redesignated to attainment, a revised inventory meeting the requirements of sections 187(a)(1) and 187(a)(5) of the Act; (3) a permit program to be submitted by November 15, 1993, which meets the requirements of section 173 for the construction and operation of new and modified major stationary sources of CO (section 172(c)(5)); (4) contingency measures due November 15, 1993, that are to be implemented if the EPA determines that the area has failed to attain the primary standards by the applicable date (section 172(c)(9)); (5) a commitment to upgrade and submit a SIP revision for the I/M program by November 15, 1993, (section 187(a)(4)); and (6) an oxygenated fuels program (section 211(m)).

The Albuquerque/Bernalillo County Air Quality Control Board has ambient monitoring data showing attainment of the CO National Ambient Air Quality Standards (NAAQS) during the period from 1992 through September of 1995. Therefore, in an effort to comply with

[1] The Clean Air Act as amended (1990 Amendments) made significant changes to the air quality planning requirements for areas that do not meet (or that significantly contribute to ambient air quality in a nearby area that does not meet) the CO NAAQS (see Pub. L. No. 101–549, 104 Stat. 2399). References herein are to the CAAA, 42 U.S.C. sections 7401 *et seq.*

the Act and to ensure continued attainment of the CO NAAQS, on April 14, 1995, the Governor of New Mexico submitted a CO redesignation request and a maintenance plan for the Albuquerque/Bernalillo County area. The redesignation request and maintenance plan were both approved by the Albuquerque/Bernalillo County Air Quality Control Board (hereafter referred to as City/County) after a public hearing held on April 13, 1995.

II. Evaluation Criteria

The Act revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment. These five requirements follow below:

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

III. Review of City/County Submittal

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to the EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[2] See also section 110(l) of the Act. Also, the EPA must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565 of April 16, 1992). The EPA's completeness criteria for SIP submittals are set out at 40 CFR 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by the EPA six months after receipt of the submission.

After providing adequate notice, City/County held a public hearing on April 13, 1995, to entertain public comment on the CO redesignation request and maintenance plan. Following the public hearing, these elements were adopted by the City/County, signed by the Governor on April 14, 1995, and submitted to the EPA as a proposed revision to the SIP.

The SIP revision was reviewed by the EPA shortly after its submittal to determine if it was administratively complete in accordance with the criteria referenced above. A letter dated June 2, 1995, was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process.

The information contained in the City/County redesignation request demonstrates that the area has met the five requirements of section 107(d)(3)(E) of the Act as noted above. The following is a brief description of how the City/County fulfilled each of these requirements. For a more detailed analysis of the submittal, refer to the Technical Support Document. In addition, because the maintenance plan is a critical element of the redesignation request, the EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request.

1. Attainment of the CO NAAQS

The City/County request contains an analysis of quality- assured CO air monitoring data which is relevant to the maintenance plan and to the redesignation request. The ambient air CO monitoring data for calendar years 1992 through September of 1995 show no violations of the CO NAAQS in the City of Albuquerque and Bernalillo County area. Since the area has complete quality- assured data showing no violations of the CO NAAQS over at least two consecutive years, the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.9 and 40 CFR 50 appendix C).

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

The City/County CO SIP is made up of a number of elements which were approved at different times prior to this action. The 1990 base year inventory, the oxygenated fuels program, and the winter wood burning program were approved on November 29, 1993, at 58 FR 62535. The nonattainment New Source Review program was approved on December 21, 1994, at 58 FR 67326. Required contingency measures were approved on May 5, 1995, at 59 FR 23167. In addition, a Clean Fuel Fleet demonstration project was approved with the contingency measures. Though not a requirement and not a contingency measure, it was approved because it could provide some emission reductions. Transportation conformity rules were approved on November 8, 1995, at 60 FR 56238. This action proposes to approve the 1993 emissions inventory, the vehicle inspection and maintenance program, maintenance plan, and maintenance contingency provisions.[3] If approved, the City/County will have a completely approved SIP for the purposes of redesignation. Although the EPA has not approved City/County's general conformity SIP provision, the EPA believes it is reasonable to proceed with redesignation, and approve the state's general conformity provisions in a subsequent notice. See section C titled Conformity of this notice for the EPA's rationale for proceeding with the redesignation.

A. Emission Inventory

Under cover dated November 5, 1992, the State of New Mexico submitted a comprehensive inventory of CO emissions from the Albuquerque/Bernalillo County area. The inventory included emissions from area, stationary, and mobile sources using 1990 as the base year for calculations. The 1990 inventory was approved after the EPA performed the Level I, II, and III reviews required to determine that the submission positively fulfilled the evaluation criteria. The comprehensive base year emissions inventory was submitted in the National Emission Data System format.

Section 187(a)(5) of the Act requires that nonattainment plan provisions include a periodic comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area after the 1990 base year inventory has been prepared. Albuquerque/Bernalillo County included the requisite periodic inventory in the CO Redesignation SIP. The periodic inventory was for 1993, using a three month CO season of November 1993 through January 1994. Stationary point, stationary area, on-road mobile, and non-road mobile sources of CO were included in the inventory. Stationary sources with emissions greater than 100 tons per year within a 25-mile buffer of the designated area were also included in the inventory. The periodic inventories are to be prepared with the same guidance used in preparing the 1990 base year inventory. The available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

[2] Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

[3] The attainment contingency measure approved on May 5, 1995 at 59 FR 23167 would become one of two maintenance contingency measures through final action on this petition.

Section 110(k) of the Act sets out provisions governing EPA's review of base year emission inventory submittals in order to determine approval or disapproval under section 187(a)(5) (see 57 FR 13565–66, April 16, 1992). The EPA is granting approval of the Albuquerque/Bernalillo County 1993 periodic CO emissions inventory submitted on May 11, 1995, based on the EPA review guidance. Please refer to the technical support document for a description of the EPA review process.

The following list presents a summary of the CO peak season daily emissions estimates in tons per day by source category: point sources, 3.18 tons per day; Area sources, 111.60 tons per day; Mobile Onroad sources, 274.16 tons per day; Mobile Nonroad sources, 45.74 tons per day; Total sources, 434.69 tons per day.

The EPA is approving this emission inventory as having met the requirements of Section 187(a)(5) of the Act as well as approving the inventory for redesignation purposes. Please reference appendix A of the Albuquerque/Bernalillo County CO Redesignation SIP for specific details on the inventory.

B. Vehicle Inspection and Maintenance

(1) *Background*. In a letter dated April 14, 1995, the State of New Mexico submitted to the EPA rules for an Albuquerque SIP revision to implement an I/M program in the Albuquerque/Bernalillo County carbon monoxide (CO) nonattainment area. These rules were submitted as part of the SIP revision regarding requirements pursuant to Section 182 of the Act and 40 CFR Part 51, Subpart S of the Federal I/M rule. The SIP was submitted in conjunction with a redesignation request and maintenance plan since the area has the air quality data to support such a request. In addition to the State regulations (Air Quality Control Board Regulation 28, Motor Vehicle Inspection), Albuquerque has submitted its I/M ''Procedures Manual'' narrative describing the I/M program, Analyzer Specification Manual, the legal authority for the program (NM Air Quality Control Act 74–2, NM Statutes Chapter 66, Motor Vehicles) and other supporting documents relating to the I/M program.

As a moderate CO nonattainment area, the City of Albuquerque was required to submit an I/M SIP by November 15, 1993, which met all the requirements of the Federal I/M Rule for a basic I/M program. Since a SIP was not received by EPA, on January 14, 1994, EPA issued a finding of nonsubmittal which initiated an 18 month sanction clock. EPA stopped the sanction clock on June 2, 1995, upon the determination that the SIP submitted by the State on April 14, 1995, was complete.

On January 5, 1995, EPA issued rules providing basic I/M areas such as Albuquerque that were redesignating to attainment significant amounts of flexibility determining which features in the I/M program the State would implement (See 60 FR 1735–38). Essentially, the rule allows that areas having an ultimately approvable redesignation request could keep their current I/M program without upgrades, if upgrades were not needed to maintain the standard in the ten year maintenance plan. For this reason EPA is publishing the approval of the I/M SIP at the same time as the redesignation to attainment. Since such a program would not be fully upgraded to meet the requirements of a basic program as contained in 40 CFR Part 51, Subpart S of the Federal I/M rule, the program implemented would have to assume an 80% rule effectiveness for the purposes of modeling in the ten year maintenance plan.

(2) Review Criteria and Determination. The criteria used to review the submitted SIP revision is based on the requirements contained in the I/M redesignation rule published January 5, 1995. This notice lists four criteria that are needed for the Agency to approve the redesignation request and the I/M program if the program is not fully upgraded to meet all the requirements in the Federal I/M rule. These criteria are: (1) legal authority for a basic I/M program, meeting all the requirements of Subpart S such that implementing regulations can be adopted without further legislation; (2) a request to place the I/M plan or upgrades, as defined in the I/M redesignation rule, (as applicable) in the contingency measures portion of the maintenance plan upon redesignation as described in the fourth element below; (3) a contingency measure to go into effect as soon as a triggering event occurs, consisting of a commitment by the Governor or the designee to adopt regulations to implement the I/M program in response to the specified triggering event; and (4) a commitment that includes an enforceable schedule for adopting and implementing the I/M program, including appropriate milestones, in the event the contingency measure is triggered (milestones shall be defined by states in terms of months since the triggering event).

Legal Authority

Legal authority for the current I/M program along with a potential future upgrade is contained in the New Mexico Air Quality Control Act as well as the New Mexico Motor Vehicle Code. Specifically, authority for the implementation of the I/M program is contained in Article 2 of the Air Quality Control Act, section 74–2–4. This section gives the local authority the ability to adopt rules, regulations and guidelines, set fees, and operate alternate program types in case of a federally required contingency. Authority for enforcement of the program by requiring a valid emission inspection certificate before a registration is granted is found in the New Mexico Motor Vehicle Code 66–3–7.1. No other legal authority is needed to fully upgrade the program to meet the basic I/M requirements of 40 CFR Part 51.

I/M Program Upgrades In Contingency Measure

Air Quality Control Board Regulation 28.23, Motor Vehicle Inspection contains the provision for program automatic upgrades as a contingency measure if the area experiences a violation of the ambient carbon monoxide standard. By regulation the program will convert to an annual testing program and will be upgraded to meet the performance standards as outlined in 40 CFR Part 51.

I/M Contingency Effective Upon Triggering Mechanism

By Regulation 28.23, the triggering mechanism is effective upon an EPA confirmed violation of the federal ambient carbon monoxide standard. The effective date of Regulation 28.23 is July 1, 1995.

Schedule for Implementing Triggered I/M Upgrade

Regulation 28.23 sets forth the schedule for implementing program upgrades, a major feature of which would be to increase the testing frequency from biennial to annual. The regulation calls for I/M program upgrades 120 days after the EPA confirmed violation of the carbon monoxide standard.

In addition to these four criteria being met, the redesignation portion of the SIP has incorporated the 80% rule effectiveness in its calculations demonstrating that the area can

maintain the standard for ten years. See pages 30 and Appendix Ba of the redesignation SIP for these calculations.

(3) Current I/M Program Parameters

Parameter	Albuquerque I/M program
Network Type	Decentralized, Test and Repair.
Emission Test	Two Speed idle test with BAR90 as of 1/1/96. BAR84 analyzers allowed prior to that date. Visual check includes catalytic converter, air injection system, and oxygen sensor.
Vehicle Coverage	1975 and later spark ignition motor vehicles between 1,000 and 26,000 pounds, including fleets operating within Bernalillo County and vehicles operating on Federal installations in the county.
Test Frequency	Biennial.
Extensions	Excludes an emission-related tune-up. Motorists have 12 months to perform repairs up to $300 and 24 months for repairs over $300.
Waivers	None.
Enforcement Penalties against Test Stations or Inspectors	Monetary penalties and/or denial, suspension or revocation of certification.
Enforcement Penalty against Motorists	Registration Denial.
Contingency Measure	Annual testing and upgrades to meet the performance standards in 40 CFR Part 51.
Upgrade Triggering Mechanism	An EPA-confirmed violation of the carbon monoxide standard.

(4) Finding of the EPA Review. EPA has reviewed the Albuquerque I/M SIP submittal SIP revision submitted to the EPA, using the criteria stated above. Albuquerque's regulations and accompanying materials contained in the SIP represent an acceptable approach to the I/M requirements in view of the approvable redesignation request.

C. Conformity

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable SIP. 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). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the Act required the EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, the EPA's General Preamble for the Implementation of Title I informed States that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16, 1992)).

The EPA promulgated final conformity regulations on November 24, 1993, (58 FR 62188) and 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 the Act's section 175A. The City/County submitted both transportation and general conformity rules to the EPA for approval. The transportation conformity rule was approved at 60 FR 56280 on November 8, 1995.

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, the EPA believes it is reasonable to proceed with a redesignation while approval of general conformity rules is under consideration by the EPA. 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 enforce 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 approving State general conformity rules does not relieve an area from the obligation to implement such requirements. Hence, EPA believes the area has met these requirements for the purpose of a redesignation request.

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

The control measures producing emission reductions are comprised of the following: (1) the Federal Motor Vehicle Control Program; (2) the oxyfuels program; (3) the winter wood burning program; and (4) the I/M program. The EPA finds that these control measures contribute to the permanence and enforceability of reductions 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 Act 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 that is adequate to assure prompt correction of any air quality problems. In this action, the EPA is proposing to approve the City/County's maintenance plan because the EPA finds that the plan meets the requirements of section 175A.

A. Demonstration of Maintenance—Projected Inventories

Total CO emissions were projected from a 1990 base year out to 2006. These projected inventories were prepared in

accordance with EPA guidance. The redesignation request contains the detailed inventory data and summaries by source category. Like the base year inventory, the inventory projections were prepared in accordance with EPA guidance. The following table summarizes the 1990 base year inventory and inventory projections to the year 2006.

CO EMISSIONS INVENTORY SUMMARY

[Tons per day]

Year	Area	Non-road	Mobile	Point	Total
1993	111.60	45.75	274.16	3.18	434.69
1996	116.28	48.12	235.50	0.00	399.90
1999	120.98	50.48	207.95	0.00	379.41
2002	125.71	52.86	197.13	0.00	375.70
2005	130.42	55.22	199.12	0.00	384.76
2006	131.98	55.98	202.95	0.00	390.91

Please reference appendix B for specific details of the projected inventories. The projections show that calculated CO emissions are not expected to exceed the level of the base year inventory during this time period. Therefore, it is anticipated that the City/County area will maintain the CO standard.

B. Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Albuquerque/ Bernalillo County area depends, in part, on the City/County's efforts in tracking the indicators of continued attainment during the maintenance period. The City/County has also committed to submit periodic inventories of CO emissions every three years to fulfill the requirements of sections 187(a)(1) and 187(a)(5).

C. Contingency Plan

In accordance with section 175A(d) of the Act, the City/County has submitted contingency measures designed to ''assure that the state will promptly correct any violation of the standard which occurs after the redesignation.'' The City/County submitted one contingency measure to correct a violation of the CO standard, and another contingency measure designed to forestall such a violation. The EPA appreciates the quality of both contingency measures for several reasons.

The City/County submitted a ''primary'' contingency measure that will take effect without further action by the City/County or the State of New Mexico. If EPA confirms that two exceedences have occurred in the maintenance area, and issues a notice of violation, two automatic policy changes will occur. One, the vehicle inspection and maintenance program will become annual rather than biannual. Two, the oxygenated fuel regulation will require that all fuel sold in the nonattainment area contain no less than 3.0 percent oxygenate by weight. The change in the I/M program will take place within 120 days after the violation is confirmed by EPA. The requirement to increase the oxygenate content will be effective at the beginning of the next CO season. For this area, the CO season begins on November 1 and concludes the last day of February. The EPA favors the contingency measures as corrective actions because they produce real and quantifiable reductions of CO, that are readily enforceable.

The City/County submitted a ''secondary'' contingency measure that can take effect if the periodic emissions inventory exceeds the baseline inventory used in this request for redesignation. In this contingency measure, the City/County authority will consider implementing the primary contingency measures if the periodic emissions inventory surpasses the amount of emissions quantified in the baseline inventory.

It is important to note that a CO inventory every three years after redesignation is not a requirement of the Act. The City/County has volunteered to perform such an inventory in addition to the requirements to submit a ten year maintenance plan, and revise the SIP eight years after the designation to attainment, to assure maintenance of the standard for an additional 10 years.

This contingency measure is particularly advantageous to the City/County because the consideration of contingency measures is required through the use of a forecasting model. By properly using the periodic emissions inventory as a forecasting tool, the City/County should be able to act to prevent any exceedences. This secondary measure is therefore protective of air quality and the status of attainment.

D. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the Act, the City/County has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. This SIP revision must provide for the maintenance of the CO standard for an additional ten years.

5. Applicable Requirements of Section 110 and Part D

The 1990 Amendments modified section 110(a)(2) and revised section 172 of part D, by adding new requirements for all nonattainment areas. The EPA has reviewed the SIP to ensure that it contains all measures that were due under the Act prior to or at the time the City/County submitted its redesignation request.

Under section 187(a), areas designated nonattainment for CO under the Act and classified as moderate were required to meet several requirements by November 15, 1992. The City/County was required to submit a 1990 Emission Inventory. The EPA has reviewed and approved the 1990 base year emission inventory (see 58 FR 62535–62539, November 29, 1993). Section 211(m) further required the City/County to submit an oxygenated fuels regulation. This rule was submitted to the EPA and approved on November 29, 1993, in the FR. Finally, the I/M program requirement has been met by the City/County's submittal to the EPA on May 8, 1995.

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Two requirements under section 172(c) for Albuquerque/ Bernalillo County were: (1) to submit a preconstruction permit program for new or modified major stationary sources that wish to locate in a nonattainment area (section 172(c)(5)); and (2) to submit contingency measures to be implemented if the area failed to make reasonable further progress (RFP) or to attain the applicable NAAQS by the

applicable date (section 172(c)(9)). The City/County submitted both of the above programs, which were fully approved in the FR (Please reference 58 FR 67326–67330, December 21, 1993, for the nonattainment New Source Review (NSR) program approval, and 59 FR 23167–23169, May 6, 1994, for the contingency measures approval). Upon redesignation to attainment, the Prevention of Significant Deterioration (PSD) permitting program will be applicable. City/County's PSD program was approved in the FR on December 21, 1993, at 58 FR 67330–67334. In addition, City/County's preconstruction permit program was approved in the FR on March 15, 1994, at 59 FR 12170–12172, and the winter wood burning program was approved on November 29, 1993, at 58 FR 62535–62539.

IV. Proposed Action

The EPA is proposing to approve the request of the State of New Mexico to redesignate to attainment the Albuquerque CO nonattainment area to attainment status. The EPA is also proposing approval of the vehicle inspection and maintenance program, the 1993 periodic emissions inventory, and the attainment maintenance plan. The EPA will take final action on this notice following analysis of public comments on this proposal.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the FR 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 has exempted this regulatory action from Executive Order 12866 review.

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

Miscellaneous

Under the Regulatory Flexibility Act, 5 U.S.C. § 600 et seq., the 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, the 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 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, I certify 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 Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. § 7410(a)(2)).

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. The EPA has also determined that this action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: January 30, 1996.

Jane N. Saginaw,

Regional Administrator.

[FR Doc. 96–3583 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 61 and 63

[FRL–5423–8]

Request for Approval of Section 112(l) Delegated Authority; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim approval and delegation.

SUMMARY: EPA invites public comment on today's proposal to approve the state of Washington Department of Ecology (Ecology) request for delegation of authority to implement and enforce state-adopted hazardous air pollutant regulations which adopt by reference the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) contained within 40 CFR Parts 61 and 63. EPA as well invites public comment on its proposal to approve specific rules submitted to EPA by Ecology in order to recognize conditions and limitations established pursuant to these rules as federally enforceable. These adopted regulations would be implemented and enforced by both Ecology and the seven local air authorities (The Benton County Clean Air Authority (BCCAA), the Northwest Air Pollution Authority (NWAPA), the Olympic Air Pollution Control Authority (OAPCA), the Puget Sound Air Pollution Control Agency (PSAPCA), the Southwest Air Pollution Control Authority (SWAPCA), the Spokane County Air Pollution Control Authority (SCAPCA), and the Yakima County Clean Air Authority (YCCAA); collectively referred to as ''the Washington permitting authorities'') within the state of Washington.

DATES: All comments on this submittal must be received by the close of business on March 18, 1996.

ADDRESSES: Copies of this submittal are available for inspection and copying during normal business hours at the following addresses: U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101, and the State of Washington Department of Ecology, 300 Desmond Drive, Lacey, Washington, 98504. Written comments should be addressed to: Chris Hall, U.S. EPA Region 10, 1200 Sixth Avenue (AT–082), Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Chris Hall at 206–553–1949.