

impose any new requirements, I certify that it does not have a significant impact on any small entities. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory 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. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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 an attainment date extension 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. A finding that an area should be granted a 1-year extension of the attainment date consists of factual determinations based on air quality considerations and the area's compliance with certain prior requirements, 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.

The EPA has reviewed this request for a 1-year extension of the CO attainment date for the MOA nonattainment area for conformance with the 1990 CAAA enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

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.

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 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 August 27, 1996 unless, by July 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 notice that will withdraw the final action. All public comments received will 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 August 27, 1996.

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 August 27, 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), 42 U.S.C. 7607(b)(2).)

#### List of Subjects in 40 CFR Part 52

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

Dated: June 3, 1996.

Jane S. Moore,

*Regional Administrator.*

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 C—Alaska**

2. Section 52.82 is revised to read as follows:

##### **§ 52.82 Extensions.**

The Administrator, by authority delegated under section 186(a)(4) of the Clean Air Act, as amended in 1990, hereby extends for one year (until December 31, 1996) the attainment date for the MOA, Alaska CO nonattainment area.

[FR Doc. 96-16156 Filed 6-27-96; 8:45 am]

BILLING CODE 6560-50-P

#### **40 CFR Parts 52 and 81**

[Region II Docket No. 146, NJ23-1-7243(c); FRL-5524-4]

#### **Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New Jersey; Revised Policy Regarding Applicability of Oxygenated Fuels Requirements**

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

**ACTION:** Final rule.

**SUMMARY:** On September 28, 1995, the New Jersey Department of Environmental Protection (NJDEP) submitted requests to redesignate the Camden County nonattainment area and nine not-classified areas from nonattainment to attainment for carbon monoxide (CO). NJDEP also submitted the required plans to assure continued attainment of the CO standards in the redesignated areas. On December 7, 1995, EPA published a direct final rulemaking (60 FR 62741) approving New Jersey's redesignation requests along with several elements of the New Jersey State Implementation Plan (SIP) for CO.

This action announced that the rulemaking would take effect on February 5, 1996 (60 days after publication), unless EPA received adverse comments by January 8, 1996 (30 days after publication), in response to a notice of proposed rulemaking published on the same day (60 FR 62792). EPA also committed to withdraw the direct final rule in the event that it received adverse comments, and to respond to any adverse comments in a subsequent final rulemaking action. EPA did receive adverse comments on this action, but failed to withdraw the final rule within the 60 days given in the notice of direct final rulemaking. Therefore, the rule took effect on February 5, 1996.

EPA is responding to the comments it received; but, for the following reasons, EPA is not changing the final rule in response to those comments. Had EPA withdrawn the direct final rule prior to its going into effect, EPA would have taken final action based on the proposal to promulgate a rule identical to the direct final rule that went into effect. Rather than now take the action of withdrawing the direct final rule only to repromulgate simultaneously an identical rule, in this action EPA is deciding to maintain the rule unchanged. EPA believes that withdrawal and repromulgation are unnecessary since the results would be identical to that obtained simply by leaving the rule unchanged and responding to the comments.

This action provides interested parties an opportunity to review how EPA addressed the comments and to petition for judicial review of EPA's action in this final rulemaking within 60 days of this publication, as provided in section 307(b)(1) of the Clean Air Act.

**EFFECTIVE DATES:** February 5, 1996.

**ADDRESSES:** Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
Region II Office, Air Programs Branch,  
290 Broadway, 20th Floor, New York,  
New York 10007-1866

New Jersey Department of  
Environmental Protection, Office of  
Energy, Bureau of Air Quality  
Planning, 401 East State Street,  
CN027, Trenton, New Jersey 08625  
Environmental Protection Agency, Air  
and Radiation Docket and Information  
Center, Air Docket (6102), 401 M  
Street, SW, Washington, DC 20460

**FOR FURTHER INFORMATION CONTACT:**  
William S. Baker, Chief, Air Programs  
Branch, Environmental Protection  
Agency, Region II Office, 290 Broadway,  
New York, New York 10007-1866, (212)  
637-4249.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Camden County, which is in the Philadelphia-Wilmington-Trenton Consolidated Metropolitan Statistical Area (CMSA), was designated nonattainment for CO under the provisions of sections 186 and 187 of the Clean Air Act. Because the area had a design value of 11.6 parts per million based on 1988 and 1989 data, the area was classified moderate. (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR part 81, §81.331.) This design value was based on ambient CO data recorded in

the City of Philadelphia. For moderate CO nonattainment areas, the Clean Air Act requires that air quality must attain the National Ambient Air Quality Standard (NAAQS) by December 31, 1995. The last exceedance of the CO NAAQS in Camden County occurred in 1989.

In addition, nine areas were designated as not-classified nonattainment under section 107(d)(1)(C) of the Clean Air Act. Three of these not-classified areas, the City of Trenton, the City of Burlington and the Borough of Penns Grove (part), are located within the Philadelphia-Wilmington-Trenton CMSA. Five of the not-classified areas, the Borough of Freehold, the City of Morristown, the City of Perth Amboy, the City of Toms River and the Borough of Somerville, are located in the New York-Northern New Jersey-Long Island CMSA. The remaining not-classified area is the City of Atlantic City, which is not contained within a CMSA. Atlantic City is part of the Atlantic City MSA. The oxygenated gasoline requirements applicable to each of these areas depend upon its location in the State. These requirements are discussed in a December 7, 1995 direct final notice (60 FR 62741).

The nine areas were considered "not-classified" because they previously had been designated nonattainment; however, air quality data collected during the period 1988 and 1989 showed that the NAAQS were met or data were not available. In those instances where air quality was no longer being monitored, concentrations measured in prior years had been well below the CO NAAQS.

In an effort to comply with the Clean Air Act and to ensure continued attainment of the NAAQS, on September 28, 1995, the State of New Jersey submitted CO redesignation requests and maintenance plans for Camden County and the nine not-classified areas. This submittal contained evidence that public hearings were held on September 8, 1995.

EPA published a direct final notice (60 FR 62741) and a proposed notice (60 FR 62792) on December 7, 1995. Since comments were received which needed addressing, EPA is addressing these comments at this time. The reader is referred to the direct final notice for a detailed discussion of EPA's action.

##### **II. Comments**

EPA received comments from The New York Mercantile Exchange (NYMEX) and the New York State Department of Environmental Conservation (NYSDEC) on the

December 7, 1995 notice. EPA's response to the comments is contained in a Technical Support Document entitled "New Jersey Carbon Monoxide Redesignation Request For Camden County & Nine Not-Classified Areas Technical Support Document (TSD); October 16, 1995; Amended March 7, 1996" found in Docket No. 146.

EPA does not believe that any of the comments present reasons why the Agency should not proceed with its proposed action, and the Agency is confident that New Jersey's redesignation request is technically sound. Therefore, EPA reaffirms its redesignation of Camden County and the nine not-classified areas in New Jersey to attainment of the CO NAAQS.

##### **III. Summary**

EPA is approving the Camden County and nine not-classified CO maintenance plans because they meet the requirements set forth in section 175A of the Clean Air Act. In addition, the Agency is approving the requests for redesignating Camden County and the nine not-classified areas to attainment because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) of the Act for redesignation.

In the December 7, 1995 notice EPA also took action on the contingency measures and statewide emissions inventory found in the New Jersey CO SIP. The contingency measures include transportation control measures which cover traffic flow improvements, park & ride lots, and increased ridesharing. EPA received no comments on these SIP elements.

The State has demonstrated to EPA's satisfaction that Camden County and the nine not-classified areas had attained the CO standard before the implementation of the oxygenated gasoline program and that as a result the oxygenated gasoline program was not needed to attain or maintain the CO standard. Therefore, EPA finds that the oxygenated gasoline program is not required in these areas in order to meet the criteria for redesignation.

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.

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, 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 Clean Air Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v US EPA*, 427 US 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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 annual costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under sections 110 and 187 of the Clean Air 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 would impose any mandate upon the state, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's 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. EPA has also determined that this final action does not include a mandate that may result in estimated annual costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

Under 5 U.S.C. section 605(b), I certify that redesignations do not have

a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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 rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. 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 rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

#### List of Subjects 40 CFR Part 52

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

#### 40 CFR Part 81

Air pollution control, National parks, and Wilderness areas.

Authority: 42 U.S.C. 7401-7671q.

Dated: May 31, 1996.

William J. Muszynski,

*Acting Regional Administrator.*

[FR Doc. 96-16158 Filed 6-27-96; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Parts 148 and 268

[EPA # F-96-PH3F-FFFFF; FRL-5528-1]

RIN 2050-AD38

#### Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical correction.

SUMMARY: On April 8, 1996, EPA published regulations covering both congressionally-mandated and court-ordered prohibitions on land disposal of certain hazardous wastes. On the same day, EPA published a partial

withdrawal and correction of those regulations to the extent the Land Disposal Program Flexibility Act (LDPFA) (signed by the President on March 26, 1996) revoked most of the court-ordered prohibitions. This notice corrects technical errors in the final regulations and the partial withdrawal notice.

EFFECTIVE DATE: This rule is effective on June 28, 1996.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA. The Docket Identification Number is F-96-PH3F-FFFFF. The RCRA Docket is open from 9 a.m. to 4 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost \$0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424-9346 (toll free) or (703) 920-9810 in the Washington, DC metropolitan area. For information on this notice contact Michael Petruska (5302W), Office of Solid Waste, 401 M Street, S.W., Washington, DC 20460, (703) 308-8434.

#### SUPPLEMENTARY INFORMATION:

##### I. Reasons and Basis for Today's Amendment

The Agency has received comments from the regulated community and State agencies requesting clarification on certain aspects of the April 8, 1996 Land Disposal Restrictions (LDR) Phase III final rule (61 FR 15566) and the April 8, 1996 withdrawal notice (61 FR 15660). Today's amendment responds to these comments and makes technical corrections where appropriate.

##### II. Amendments to the LDR Phase III Final Rule

There were several errors in the treatment standard table in § 268.40, and in the table of Universal Treatment Standards (UTS) in § 268.48. The errors pertained to portions of the final rule which were not affected by the LDPFA. It should be noted that certain errors in both of these tables are not being corrected here as they are being corrected by the Office of Federal Register.

##### A. Section 268.40 Table

There were several errors in the table "Treatment Standards for Hazardous