

February 28, 1992, and a Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD) was signed April 6, 1992. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. A final rule that redefined the jurisdiction of the Federal Subsistence Management Program to include waters subject to the subsistence priority was published on January 8, 1999, (64 FR 1276.)

#### *Compliance with Section 810 of ANILCA*

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

#### *Paperwork Reduction Act*

The adjustment and emergency closures do not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

#### *Other Requirements*

The adjustments have been exempted from OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant economic effect (both positive and negative) on a small number of small entities supporting subsistence activities, such as boat, fishing gear, and

gasoline dealers. The number of small entities affected is unknown; but, the effects will be seasonally and geographically-limited in nature and will likely not be significant. The Departments certify that the adjustments will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, the adjustments have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that the adjustments will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that the adjustments meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

In accordance with Executive Order 13132, the adjustments do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over fish and wildlife resources on Federal lands. Cooperative salmon run assessment efforts with ADF&G will continue.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply,

distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As these actions are not expected to significantly affect energy supply, distribution, or use, they are not significant energy actions and no Statement of Energy Effects is required.

#### *Drafting Information*

William Knauer drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Bob Gerhard, Alaska Regional Office, National Park Service; Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service, provided additional guidance.

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Dated: July 25, 2002.

**Kenneth E. Thompson,**

*Subsistence Program Leader, USDA-Forest Service.*

Dated: July 25, 2002.

**Thomas H. Boyd,**

*Acting Chair, Federal Subsistence Board.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

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

**[Region II Docket No. NJ52–243(a); FRL–7264–6]**

### **Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New Jersey**

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

**ACTION:** Direct final rule.

**SUMMARY:** On January 15, 2002, the New Jersey State Department of Environmental Protection (NJDEP) submitted a request to EPA to redesignate the New Jersey portion of the New York-Northern New Jersey-Long Island Carbon Monoxide (CO) nonattainment area from nonattainment to attainment of the National Ambient Quality Standard (NAAQS) for CO. EPA is approving this request from the State of New Jersey because it meets the

redesignation requirements set forth in the Clean Air Act. In addition, EPA is approving the New Jersey CO maintenance plan because it provides for continued maintenance of the CO NAAQS.

EPA is also approving the New Jersey CO attainment demonstration that was submitted on August 7, 1998. This provides for full approval of New Jersey's State Implementation Plan (SIP) for CO.

Additionally, EPA is approving the 2007 and 2014 transportation conformity budgets found in New Jersey's CO maintenance plan. Finally, EPA is approving the 1997 transportation conformity budget submitted on December 10, 1999 as an addendum to the New Jersey CO attainment demonstration submitted on August 7, 1998.

The intended effect of this action is to approve a plan that demonstrates that the CO standard has been attained and will continue to be attained.

**DATES:** This direct final rule will be effective on October 22, 2002 unless EPA receives adverse comments by September 23, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Written comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

Copies of the State submittals and EPA's Technical Support Document are available for public inspection during normal business hours, by appointment, at the following addresses:

Environmental Protection Agency,  
Region 2 Office, Air Programs Branch,  
290 Broadway, 25th 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

**FOR FURTHER INFORMATION CONTACT:**  
Henry Feingersh, Air Programs Branch,  
Environmental Protection Agency,  
Region 2 Office, 290 Broadway, 25th  
Floor, New York, New York 10007-  
1866, (212)637-4249.

**SUPPLEMENTARY INFORMATION:**

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**1. What Is Required by the Clean Air Act and How Does It Apply to New Jersey?**

Under the Clean Air Act (CAA) as amended in 1990, air quality designations can be revised if sufficient data is available to warrant such revisions.

Section 107(d)(3)(E) of the CAA identifies five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

a. The Area Must Have Attained the Applicable NAAQS

b. The area must have a fully approved SIP under section 110(k) of the CAA.

c. The air quality improvement must be permanent and enforceable.

d. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA.

e. The area must meet all applicable requirements under section 110 and Part D of the CAA.

Pursuant to sections 107, 186, and 187 of the CAA, the New Jersey portion of the New York-Northern New Jersey-Long Island CO nonattainment area is classified as a moderate 2 area (*i.e.*, an area having a CO design value of 12.8–16.4 parts per million, or ppm). The entire non-attainment area is included within the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Area (CMSA). The areas in New Jersey which are designated non-attainment include the Counties of Hudson, Essex, Bergen, and Union and the municipalities of Clifton, Passaic, and Paterson in Passaic County.

The CO design value used for designation and control program development purposes was 13.5 ppm and was based on ambient CO data from a monitor in Kings County, New York. Kings County was chosen because this site recorded the highest CO values in the multistate nonattainment area. (See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.333.) For moderate 2 CO nonattainment areas, the CAA required attainment of the National Ambient Air Quality Standard (NAAQS) by December 31, 1995. The remainder of the State of New Jersey is designated attainment for CO.

In the area being redesignated today, there was a measured exceedance of the

CO NAAQS in 1994. Consequently, on April 24, 1996, the State of New Jersey submitted a request for a one year extension of the attainment date to December 31, 1996 as allowed for in the CAA if adjoining states concur. On July 31, 1996 and June 27, 1996, the States of New York and Connecticut respectively submitted letters to EPA concurring with New Jersey's request and requested their own extensions. Pursuant to section 186(a)(4), EPA granted the request for a one year extension to December 31, 1996 in a November 5, 1996 **Federal Register** notice (61 FR 56897).

**2. What Was Included in New Jersey's Submittal and Does It Meet the Clean Air Act Requirements?**

On August 7, 1998, New Jersey submitted its CO attainment demonstration. This proposed revision is contained in a document entitled "State Implementation Plan (SIP) Revision for the Attainment and Maintenance of the Carbon Monoxide National Ambient Air Quality Standards—Attainment Demonstration for the New Jersey Portion of the New York-Northern New Jersey-Long Island Carbon Monoxide Nonattainment Area." The State held a public hearing for this SIP revision on August 11, 1997.

In an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on January 15, 2002, the State of New Jersey submitted a CO redesignation request and maintenance plan for the New Jersey portion of the CO nonattainment area. New Jersey held a public hearing for this proposal on December 18, 2001.

The following is a brief description of how the State has fulfilled each of the CAA redesignation requirements.

*a. The Area Must Have Attained the Applicable NAAQS*

New Jersey's CO air monitoring data shows that from calendar year 1995 through calendar year 2000, no violations of the CO NAAQS have occurred. A violation is considered to have occurred when measured levels exceed the standard more than once at the same CO monitor during a calendar year.

In addition, in order to demonstrate attainment of the CO NAAQS, the data must be quality-assured and not show a violation of the standard for the last two consecutive years. New Jersey's CO data has been quality assured and shows no more than one exceedance of the NAAQS per year over the most recent two complete years of data (1999 and 2000). Moreover, EPA's review of available data for 2001 and the first few

months of 2002 indicates no exceedances of the CO standard since 2000. Therefore, EPA finds that the New Jersey portion of the CMAA has met the first statutory criterion for attainment of the CO NAAQS (40 CFR 50.9 and appendix C).

*b. The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA*

The 1990 CAA required that nonattainment areas meet specific new requirements depending on the severity of the nonattainment classification. Requirements for New Jersey include an attainment demonstration, forecast of vehicle miles traveled, the preparation of a 1990 emission inventory with periodic updates, the development of contingency measures, implementation of an enhanced inspection and maintenance (I/M) program, and adherence to the transportation and general conformity rules. In today's action EPA is fully approving New Jersey's January 15, 2002 CO SIP revision as meeting all of 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 New Jersey's redesignation request.

*Previously Approved Requirements*

New Jersey's emissions inventory and contingency measures were approved by EPA as part of the New Jersey CO SIP on December 7, 1995 (60 FR 62741). Similarly, the vehicle miles traveled forecast was approved on July 25, 1996 (61 FR 38591).

Implementation of New Jersey's enhanced I/M program began on December 13, 1999. After the State successfully demonstrated its decentralized test and repair effectiveness rate credit claim and revised its performance standard modeling to reflect the program as implemented, EPA published a final approval of the enhanced I/M program on January 22, 2002 (67 FR 2811).

*Requirements Currently Being Approved*

New Jersey submitted an August 7, 1998 CO attainment demonstration to EPA in which all of the modeled intersections attained the 8-hour CO standard of 9 ppm. Since air quality values at the most congested intersections were determined to not exceed the standard, New Jersey has demonstrated that the entire area is and will continue to be in attainment for CO. New Jersey used appropriate modeling techniques and modeling inputs in its demonstration. EPA is, therefore, approving the attainment demonstration

at this time. Accordingly, as a result of today's action and the previous EPA actions noted above, New Jersey's CO SIP is fully approved.

*Conformity*

Section 176 of the CAA contains requirements related to conformity. Although EPA regulations require that states adopt transportation conformity provisions (40 CFR 51.390) and general conformity provisions (40 CFR 51.851) in their SIPs for areas designated nonattainment, or that are subject to an EPA approved maintenance plan, EPA has determined that transportation and general conformity SIPs are not applicable requirements for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's approval of the Boston, Massachusetts CO redesignation, where 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 CO redesignation request (61 FR 2918, January 30, 1996).

EPA's decision 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, the State remains obligated to adopt the transportation and general conformity rules even after redesignation and would risk sanctions for failure to do so. Unlike most requirements of section 110 and part D, which are linked to the nonattainment status of the 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 approved state rules. Therefore, a delay in approving State rules does not relieve an area from the obligation to implement conformity requirements.

New Jersey does not yet have approved transportation and general conformity SIPs, however, EPA may approve this redesignation. 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 approved. The State has developed new conformity budgets for CO that must be used in future conformity determinations, in accordance with the Federal conformity rules. These budgets are discussed in detail later in this notice. Accordingly, EPA believes it is appropriate to evaluate New Jersey's

redesignation request independent of the status of the State's conformity regulations.

*Part D New Source Review Requirements*

Consistent with the October 14, 1994 EPA guidance from Mary D. Nichols, entitled "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," EPA is not requiring full approval of a Part D NSR program by New Jersey as a prerequisite to redesignation to attainment. Under this guidance, nonattainment areas may be redesignated to attainment notwithstanding the lack of a fully approved Part D NSR program so long as the program is not relied upon for maintenance. New Jersey has not relied on a NSR program to maintain air quality within the CO standard. Moreover, because the New Jersey portion of the CO nonattainment area is being redesignated to attainment by this action, New Jersey's Prevention of Significant Deterioration (PSD) requirements, not Part D NSR, will be applicable to new or modified sources of CO.

*c. The Air Quality Improvement Must Be Permanent and Enforceable*

As part of the August 7, 1998 CO SIP revision, New Jersey submitted a demonstration that the improvement in air quality within the nonattainment area is due to permanent and enforceable reductions in emissions of CO resulting from implementation of a number of measures to control motor vehicle CO emissions. These measures include the Federal Motor Vehicle Control Program, Federal reformulated gasoline regulation, and New Jersey's pre-1990 modifications to its motor vehicle I/M program.

The State of New Jersey 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, for example, a local economic downturn. EPA finds that the combination of existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed New Jersey to attain the NAAQS since 1995.

*d. The Area Must Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA*

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 EPA approves a redesignation to attainment. Eight years after the redesignation, a 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 should they arise. In this action, EPA is approving New Jersey's maintenance plan because EPA finds that New Jersey's submittal meets the requirements of section 175A.

*1996 Attainment Year Inventory*

Sections 172(c)(3) and 187(a)(1) of the CAA require that CO plan provisions include a comprehensive, accurate, and current emission inventory from all sources of relevant pollutants in the nonattainment area. In addition, page 8, section 5a of the September 4, 1992

memorandum from John Calcagni, former Director, Air Quality Management Division, to EPA Regional Air Division Directors entitled "Procedures for Processing Requests to Redesignate Areas to Attainment," requires States to "develop an attainment inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS. This inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include emissions during the time period associated with the monitoring data showing attainment."

New Jersey originally provided an estimate of 1996 attainment year emissions in its August 7, 1998 attainment demonstration. This was supplemented on October 1, 2001, when New Jersey submitted a revised 1996 attainment year CO inventory. The inventory, which is based on the winter time months spanning from December 1995 through February 1996, includes average winter time daily emissions

from stationary point sources, stationary area sources, on-road mobile sources, and non-road mobile sources of CO. New Jersey's submittal reflects emission estimates that have been revised to incorporate methodological changes, including new control assumptions and updated vehicle registration data since that original submittal. The inventory was prepared in a manner consistent with EPA's most recent guidance for preparing actual emission inventories. Table I below shows the source sector contributions by county to the overall CO emissions in 1996.

For the reader's information, New Jersey has chosen to use countywide emission inventory values for attainment demonstration and projection purposes in Passaic County, rather than limiting the inventory to the three nonattainment municipalities. The State believes countywide CO inventory and projection values are more technically sound than sub-county estimates would have been in this case and are adequately protective of air quality.

TABLE I.—THE 1996 CARBON MONOXIDE ATTAINMENT EMISSION INVENTORY

County	Carbon Monoxide Emissions (tons per day)				
	Point sources	Area sources	On-road mobile sources	Non-road mobile sources	County totals
Bergen .....	1.62	28.10	297.77	127.80	455.29
Essex .....	2.77	11.81	208.70	63.82	287.10
Hudson .....	8.83	5.15	126.79	42.88	183.64
Passaic .....	0.72	39.65	141.07	38.74	220.17
Union .....	4.18	13.98	153.36	47.60	219.11
Sector totals .....	18.12	98.69	927.69	320.84	1365.31

Grand Total From All Sources: 1365.31 tons per peak winter season day.

EPA has reviewed New Jersey's 1996 attainment year inventory and finds that it was prepared in a manner acceptable to EPA. Therefore, EPA is approving the CO inventory for the counties of Bergen, Essex, Hudson, Union, and Passaic.

*Projection Year Inventories*

As part of the January 15, 2002 SIP submittal, New Jersey included projection year inventories for 2007 and 2014. These emissions, which reflect

post-1996 control measure assumptions, are provided in Table 2 below in comparison to the 1996 attainment year inventory.

TABLE 2.—THE 1996 ATTAINMENT AND 2007 AND 2014 PROJECTED CARBON MONOXIDE SEASON CARBON MONOXIDE EMISSION INVENTORIES BY COUNTY

County	1996 Attainment Emission Inventory (tons/day)	2007 Projected Emission Inventory (tons/day)	2014 Projected Emission Inventory (tons/day)
Bergen .....	455.29	350.56	381.01
Essex .....	287.10	209.08	222.18
Hudson .....	183.64	118.20	130.76
Passaic .....	220.17	163.46	171.53
Union .....	219.11	156.41	166.45
Totals .....	1365.31	997.71	1071.93

Based on the projections provided above, New Jersey estimates that total CO emissions within the nonattainment area will decrease from 1,365.31 tons per day in the 1996 attainment year to 1,071.93 tons per day in 2014. Such a reduction in CO emissions clearly supports New Jersey's contention that the CO NAAQS will be maintained into the foreseeable future. Both the attainment and projected inventories submitted by New Jersey were prepared in accordance with EPA's most recent guidance. The attainment year and projection year totals in Tables 1 and 2 show that the future CO emissions are expected to be below the level of emissions in the attainment year and takes into account national, regional, and local (state) emission reduction benefits from the following control programs: Tier I—Post 1990 Federal Motor Vehicle Control Program; Federal Reformulated Gasoline; National Low Emission Vehicle Program; Enhanced Inspection and Maintenance Program; and Phase I of the Federal Spark Ignition Small Engine Rule. For more details on how New Jersey prepared its attainment year and projection year inventories, the reader is referred to the technical support document which accompanies this action. EPA finds that New Jersey has projected its 2007 and 2014 emissions using appropriate growth factors and methodology and is therefore, approving the CO projection year inventories for the counties of Bergen, Essex, Hudson, Union, and Passaic.

#### *Transportation Conformity Budgets*

The submittal included transportation conformity budgets based on the control strategies, growth projections and assumptions used in the attainment demonstration and maintenance plans for the CO nonattainment area. Table 3 presents the 1997, 2007 and 2014 CO transportation conformity budgets in tons of CO per winter day. The transportation conformity budget for 1997 was submitted on December 10, 1999 as an addendum to the New Jersey CO attainment demonstration submitted by NJDEP on August 7, 1998. EPA announced its findings that the 1997 budget was adequate for transportation conformity purposes on June 9, 2000 (65 FR 36689). The transportation conformity budgets for 2007 and 2014 were included in the maintenance plan portion of the January 15, 2002 submittal. EPA sent a letter to NJDEP on April 22, 2002 stating that the 2007 and 2014 CO budgets are adequate for transportation conformity purposes. This finding was published in the **Federal Register** on May 8, 2002 at 67

FR 30915. These budgets are consistent with the State's emission baseline and projected inventories for highway mobile sources. EPA is now approving the 1997, 2007, and 2014 transportation conformity budgets for CO.

**TABLE 3.—CARBON MONOXIDE TRANSPORTATION CONFORMITY BUDGETS**  
(tons of CO/winter day)

Year	CO (tons/winter day)
1997 .....	690.43
2007 .....	492.41
2014 .....	490.45

#### *Monitoring Network*

New Jersey has committed to continue to operate its existing air monitoring network and quality assurance program in accordance with 40 CFR part 58 to ensure the development of complete and accurate air monitoring data.

#### *Verification of Continued Attainment*

Continued attainment of the CO NAAQS in New Jersey depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The State has projected CO emissions out to 2014 with the interim year of 2007. New Jersey will review monitoring data each year and will check for trends. If upward trends are observed, the State will review conditions to determine the cause of the increase. If this review does not reveal the cause of the increase and an exceedance is possible, emission estimates will be generated and compared to those from the 1996 attainment inventory. New Jersey has committed to report to EPA within six months of finding any upward air quality trends.

EPA is approving the State of New Jersey's plans for verifying continued attainment of the CO standard and for identifying areas at risk of exceeding the CO standard.

#### *Contingency Plan*

The level of CO emissions in New Jersey will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, it is possible that the ambient air pollutant concentrations may exceed or violate the NAAQS based upon some unforeseeable condition. In order to avoid this, the CAA requires states to develop contingency measures to offset unexpected emission increases. New Jersey has committed to implement a set

of actions which will reduce truck idling emissions. In addition, the State will work with the local metropolitan planning organization, the North Jersey Transportation Planning Authority, to implement various transportation control measures.

*e. The Area Must Meet All Applicable Requirements Under Section 110 and Part D of the CAA*

In section 2.b. of this document EPA sets forth the basis for its conclusion that New Jersey has a fully approved SIP which meets the applicable requirements of section 110 and Part D of the CAA. EPA notes that section 110 also requires that states include in their SIPs, where applicable, oxygenated gasoline programs. The oxygenated fuels program was removed from the New Jersey SIP because the entire CMSA, including the New York and Connecticut portions, were attaining the CO NAAQS. Consequently, the State demonstrated to EPA's satisfaction that the program was no longer necessary to continue to attain the CO NAAQS (see 64 FR 63690 (November 22, 1999)).

#### **3. What Are EPA's Findings?**

EPA has determined that the information received from the NJDEP constitutes complete redesignation requests under the general completeness criteria of 40 CFR part 51, appendix V, sections 2.1 and 2.2. Additionally, the New Jersey redesignation request meets the five requirements of section 107(d)(3)(E), noted earlier.

#### **4. What Are EPA's Conclusions?**

EPA is approving New Jersey's request for redesignating the New Jersey portion of the New York-Northern New Jersey-Long Island CO nonattainment area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA is also approving the New Jersey CO maintenance plan because it meets the requirements set forth in section 175A of the CAA. In addition, EPA is approving the New Jersey CO attainment demonstration that was submitted on August 7, 1998. Finally, EPA is approving the 2007 and 2014 transportation conformity budgets found in New Jersey's CO maintenance plan and the 1997 transportation conformity budget submitted on December 10, 1999 as an addendum to New Jersey's August 7, 1998 CO attainment demonstration.

#### **5. EPA Rulemaking Action**

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial

submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective October 22, 2002 without further notice unless the Agency receives adverse comments by September 23, 2002.

If the EPA receives adverse comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

#### 6. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the 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 October 22, 2002. 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, Intergovernmental relations, Reporting and recordkeeping requirements.

##### 40 CFR Part 81

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

Dated: August 7, 2002.

**William J. Muszynski,**

*Deputy Regional Administrator, Region 2.*

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 *et seq.*

#### Subpart FF—New Jersey

2. Section 52.1581 is added to read as follows:

##### § 52.1581 Control strategy: Carbon monoxide.

(a) Approval—The September 28, 1995 revision to the carbon monoxide state implementation plan for Camden County and the Nine not-classified areas (the city of Trenton, the City of Burlington, the Borough of Penns Grove (part), the Borough of Freehold, the City of Morristown, the City of Perth Amboy, the City of Toms River, the Borough of Somerville, and the City of Atlantic City). This revision included a maintenance plan which demonstrated continued attainment of the National Ambient Air Quality Standard for carbon monoxide through the year 2007.

(b) The base year carbon monoxide emission inventory requirement of section 187(a)(1) of the 1990 Clean Air Act Amendments has been satisfied for the entire State. The inventory was submitted on November 15, 1992 and amended on September 28, 1995 by the New Jersey Department of Environmental Protection as a revision to the carbon monoxide State Implementation Plan.

(c) Approval—The November 15, 1992, October 4, 1993, and August 7, 1998 revisions to the carbon monoxide state implementation plan for the New Jersey portion of the New York—Northern New Jersey—Long Island

Carbon Monoxide nonattainment area. This included an attainment demonstration and the control measures needed to attain the National Ambient Air Quality Standard for carbon monoxide. The January 15, 2002, request to redesignate the New Jersey portion of the New York—Northern New Jersey—Long Island Carbon Monoxide nonattainment area from nonattainment to attainment of the National Ambient Air Quality Standard for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan which demonstrated continued attainment of

the National Ambient Air Quality Standard for carbon monoxide through the year 2014.

3. Section 52.1582 is amended by revising the section heading and removing and reserving paragraph (d)(2) to read as follows:

**§ 52.1582 Control strategy and regulations: Ozone.**

\* \* \* \* \*

**PART 81—[AMENDED]**

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

**NEW JERSEY-CARBON MONOXIDE**

Authority: 42 U.S.C. 7401–7671q.

**Subpart C—Section 107 Attainment Status Designations**

2. In § 81.331, the table for “New Jersey-Carbon Monoxide” is amended by revising the entry for “New York—N. New Jersey—Long Island Area” to read as follows:

**§ 81.331 New Jersey.**

\* \* \* \* \*

Designated Area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * * * *				
New York-N. New Jersey-Long Island Area:				
Bergen .....	October 22, 2002 .....	Attainment.		
Essex County .....	.....do .....	Attainment.		
Hudson County .....	.....do .....	Attainment.		
Passaic County (part)				
City of Clifton .....	.....do .....	Attainment.		
City of Paterson .....	.....do .....	Attainment.		
City of Passaic .....	.....do .....	Attainment.		
Union County .....	.....do .....	Attainment.		
* * * * *				

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

\* \* \* \* \*

[FR Doc. 02–21283 Filed 8–22–02; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

[CA–082–FOAa; FRL–7263–9]

**Determination of Attainment of the 1-Hour Ozone Standard for San Diego County, CA**

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

**ACTION:** Direct final rule.

**SUMMARY:** This rulemaking contains EPA’s final determination that the San Diego area has attained the 1-hour ozone air quality standard by the deadline required by the Clean Air Act. If adverse written comments are received, we will withdraw the direct final rule and address the comments received in a new final rule; otherwise no further rulemaking will occur on this action. Elsewhere in this issue of the **Federal**

**Register**, we are proposing to make this finding of attainment.

**DATES:** This direct final finding is effective October 22, 2002, without further notice, unless we receive adverse comments by September 23, 2002. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Please address your comments to: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the State’s submittal are available for public inspection during normal business hours at EPA’s Region 9 office and at the following locations:

California Air Resources Board, 1001 I Street, Sacramento, CA 95814.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

**FOR FURTHER INFORMATION CONTACT:** Dave Jesson, US EPA Region 9, at (415) 972–3957, or *jesson.david@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Attainment Finding**

*A. San Diego’s Ozone Classification and Current Status*

When the Clean Air Act (CAA) Amendments were enacted in 1990, each area of the country that was designated nonattainment for the 1-hour ozone national ambient air quality standard (NAAQS), including the San Diego area, was classified by operation of law as marginal, moderate, serious, severe, or extreme depending on the severity of the area’s air quality problem.<sup>1</sup> CAA sections 107(d)(1)(C) and 181(a). The San Diego area was initially classified as severe. See 40 CFR 81.305 and 56 FR 56694 (November 6, 1991). The area was reclassified as serious after we determined that the ozone design value used in the original classification was incorrect. 60 FR 3771 (January 19, 1995).

<sup>1</sup> The 1-hour ozone nonattainment area is the “San Diego Area,” which comprises the entire County of San Diego. See 40 CFR 81.305.