relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed 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.

This proposed rule does not involve establishment of technical standards, and 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 proposed 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.*)

Authority: 42 U.S.C. 7401 *et seq.*

List of Subjects in 40 CFR Part 81

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

Dated: January 7, 2005.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 05–1118 Filed 1–19–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–7862–5]

Determination of Attainment by the Applicable Attainment Date for the Carbon Monoxide National Ambient Air Quality Standard Within the Las Vegas Valley Nonattainment Area, Clark County, NV; Determination Regarding Applicability of Certain Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to find that the Las Vegas Valley nonattainment area in the State of Nevada has attained the National Ambient Air Quality Standard for carbon monoxide by the applicable December 31, 2000 attainment date. Based on this proposal, EPA also proposes to determine that the Clean Air Act's requirements for contingency provisions will no longer apply to the area.

DATES: Written comments on this proposal must be received by February 22, 2005.

ADDRESSES: Comments should be addressed to the EPA contact below. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours. We may charge you a reasonable fee for copying parts of the docket. Steven Barhite, Chief, Environmental Protection Agency, Region IX, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone: (775) 833–1276. E-mail: *oconnor.karina@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. Attainment Finding

A. Background

1. *Which NAAQS Is Considered in Today's Proposed Finding?*

Carbon monoxide (CO) is a colorless, odorless gas emitted in combustion processes. In most areas where elevated CO levels are found, CO comes primarily from tailpipe emissions of cars and trucks. Exposure to elevated CO levels is associated with impairment of visual perception, work capacity, manual dexterity, and learning ability, and with illness and death for those who already suffer from cardiovascular disease, particularly angina or peripheral vascular disease.

On April 30, 1971 (*see* 36 FR 8186), pursuant to section 109 of the Clean Air Act (CAA or ''Act''), as amended in 1970, we promulgated the original National Ambient Air Quality Standards (NAAQS) for several pervasive air pollutants, including CO. NAAQS represent concentration levels the attainment and maintenance of which, allowing for an adequate margin of safety, EPA has determined to be requisite to protect public health (''primary'' NAAQS) and welfare (''secondary'' NAAQS). The primary (*i.e.*, health-based) NAAQS for CO is 9 parts per million (ppm) averaged over an 8-hour period, and 35 ppm averaged over 1 hour, neither to be exceeded more than once per year. In our 1971 rulemaking, we established identical primary and secondary NAAQS for CO but later revoked the secondary (welfare) NAAQS for CO. See 50 FR 37484 (September 13, 1985).

2. *What Is the Designation and Classification of This CO Nonattainment Area?*

As noted above, EPA first promulgated the NAAQS in 1971, and within 9 months thereafter, each State was required under section 110 of the Act to adopt and submit to EPA a plan that provides for the implementation, maintenance, and enforcement of the NAAQS within each State. These plans are referred to as ''State implementation plans'' or ''SIPs.'' Generally, SIPs were to provide for attainment of the NAAQS within 3 years after EPA approval of the plan. However, many areas of the country did not attain the NAAQS within the statutory period. In response, Congress amended the Act in 1977 to establish a new approach, based on area designations, for attaining the NAAQS, and on March 3, 1978 (*see* 43 FR 8962), we promulgated attainment status designations for all areas within each of the States. In this 1978 rulemaking, we designated Las Vegas Valley (*i.e.*, State hydrographic area #212), which is a subarea within Clark County, as a ''nonattainment'' area for the CO NAAQS.

The Clean Air Act, as amended in 1977, required States to revise their SIPs by preparing, adopting and submitting attainment plans (for EPA approval) that set forth a strategy to achieve the NAAQS in designated nonattainment areas. The original statutory deadline for attainment was 1982. EPA conditionally approved the initial CO attainment plan for Las Vegas Valley into the Nevada SIP in 1981. See 46 FR 21758 (April 14, 1981). EPA removed the conditions on the CO plan in 1982. See 47 FR 15790 (April 13, 1982). Updated attainment plans were required for areas, like Las Vegas Valley, that did not achieve the original 1982 deadline. EPA approved an updated plan for CO in Las Vegas Valley into the Nevada SIP in 1984. See 49 FR 44208 (November 5, 1984).

Notwithstanding our approval of the updated CO attainment plan that was intended to provide for attainment in the valley by the end of 1987, the CO NAAQS was not actually attained by the end of that year in Las Vegas Valley, nor was it attained in many other areas of the country. In 1988, EPA notified the Governors of the various States in which areas had failed to attain the CO NAAQS that their SIPs were inadequate and that their SIPs must be revised (''SIP call''). See 53 FR 34500 (September 7, 1988). The SIP call involved a two-phase approach. The first phase called for the States to fix deficiencies in their existing plans and to implement any measures already adopted but not yet implemented. The second phase, which called for development of a new attainment plan, awaited Congressional amendments to the Clean Air Act that were anticipated to occur in 1990. See 55 FR 30873 (July 30, 1990).

As anticipated, the Act was substantially amended in 1990 to establish new planning requirements and attainment deadlines for the NAAQS. Under section 107(d)(1)(C) of the Act, areas designated nonattainment at the time of enactment of the 1990 Act Amendments, including Las Vegas Valley, were designated nonattainment by operation of law. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either moderate or serious, depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Las Vegas Valley area, were classified as moderate. See 56 FR 56694 (November 6, 1991). (The design value for Las Vegas Valley for initial classification purposes was 14.4 ppm, which was based on monitoring data from the late 1980's.)

Section 172 of the 1990 Act Amendments contains general requirements applicable to SIP revisions for nonattainment areas, and sections 186 and 187 set out additional air quality planning requirements for CO nonattainment areas. The most fundamental of these provisions is the requirement that CO nonattainment areas with design values greater than 12.7 ppm submit a SIP revision demonstrating attainment of the NAAQS as expeditiously as practicable but no later than the deadline applicable to the area's classification: December 31, 1995, for moderate areas. See CAA sections 186(a)(1) and 187(a)(7).

Las Vegas Valley failed to reach attainment by December 31, 1995, but, under section 186(a)(4) of the Act, the State of Nevada requested, and EPA granted, a one-year extension of the attainment date, *i.e.*, to December 31, 1996. See 61 FR 57331 (November 6, 1996). However, in the first quarter of 1996, three exceedances of the CO standard were recorded at the East Charleston monitoring station in Las Vegas, and thus, the State was unable to show attainment of the standard by December 31, 1996 and could not qualify for an additional one-year extension under section 186(a)(4) of the Act.

Subsequently, on October 2, 1997, we published a final rule that found that the Las Vegas Valley CO nonattainment area did not attain the CO NAAQS by the applicable attainment date and that reclassified the area from ''moderate'' to ''serious'' nonattainment under section 186(b)(2) of the Act. See 62 FR 51604 (October 2, 1997). Areas reclassified as serious are given more time to develop a new attainment plan and a new attainment date but are subject to additional requirements beyond those that are required in moderate nonattainment areas. For Las Vegas Valley, the effect of the reclassification to ''serious'' was to allow Nevada 18 months from the effective date of the reclassification to submit a new plan demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000, the CAA attainment date for serious CO nonattainment areas.

In 2000, the State of Nevada submitted a new plan that revises the CO attainment strategy and that provides a demonstration of attainment, based on modeling techniques, by the new attainment deadline, *i.e.*, December 31, 2000. In January 2003, EPA proposed to approve the various plan elements contained in this latest CO plan, including the modeled attainment demonstration. See 68 FR 4141 (January 28, 2003). In September 2004, we finalized our approval of all of the plan elements except for the contingency provisions. See 69 FR 56351 (September 21, 2004).

3. How Do We Make Attainment Determinations?

Section 179(c)(1) of the Act provides that attainment determinations are to be based on the ''area's air quality as of the attainment date,'' and section 186(b)(2) of the Act is consistent with this requirement but adds that CO air quality is to be documented for attainment determination purposes in terms of ''design values''. EPA makes the determination as to whether an area's air quality is meeting the CO NAAQS based upon air quality data gathered at CO monitoring sites in the nonattainment area which have been entered into the Air Quality System (AQS) database, formerly known as the Aerometric Information Retrieval System (AIRS). This data is reviewed to determine the area's air quality status in accordance with 40 CFR 50.8, EPA policy guidance as stated in a memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations,'' dated June 18, 1990, and in EPA's ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (*see* 57 FR 13498, at 13535, April 16, 1992).

The 8-hour and 1-hour CO design values are used to determine attainment of CO areas, and the design values are determined by reviewing 8 quarters of data, or a total of 2 complete calendar years of data for an area. The 8-hour design value is computed by first finding the maximum and second maximum (non-overlapping) 8-hour values at each monitoring site for each year of the two calendar years prior to and including the attainment date. Then the higher of the two ''second high'' values is used as the design value for the monitoring site, and the highest design value among the various CO monitoring sites represents the CO design value for the area.

The CO NAAQS requires that not more than one 8-hour average per year can equal or exceed 9.5 ppm (values below 9.5 are rounded down to 9 and are not considered exceedances). If an area has a design value that is equal to or greater than 9.5 ppm, this means that there was a monitoring site where the second highest (non-overlapping) 8-hour average was measured to be equal to or greater than 9.5 ppm in at least 1 of the 2 years being reviewed to determine attainment for the area. This indicates that there were at least two values above the NAAQS during 1 year at that site and thus the NAAQS for CO was not met. Conversely, an eight-hour design value of less than 9.5 ppm indicates that the area has attained the CO NAAQS. The one-hour CO design value is computed in the same manner.

B. Basis for EPA's Proposed Attainment Finding

1. What Is the Statutory Basis for This Proposed Finding?

Pursuant to sections 179(c)(1) and 186(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on the area's design

value as of the attainment date, the CO nonattainment area attained the NAAQS by that date. As a CO nonattainment area that was reclassified as ''serious'' under 186(b)(2)(A) of the Act, Las Vegas Valley was required under section 186 of the Act to attain the CO NAAQS no later than December 31, 2000. Therefore, our obligation, under sections 179(c)(1) and 186(b)(2) of the Act, is to determine whether the Las Vegas Valley attained the CO NAAQS based on the area's design value as of December 31, 2000.

2. How Did We Determine That Las Vegas Valley Has Attained the CO NAAQS by the Applicable Attainment Date?

As additional background, we provide a brief description in the following paragraphs of the Las Vegas Valley CO nonattainment area and CO monitoring network before discussing the monitoring data that provide the basis for determining the design value and attainment of the CO NAAQS.

Characteristics of Nonattainment Area: The population of the Las Vegas Valley nonattainment area (State hydrographic area #212) is approximately 1.4 million residents. The valley, located in southern Nevada, lies entirely within Clark County and includes the cities of Las Vegas, North Las Vegas, and Henderson. The remainder of the nonattainment area includes unincorporated areas of Clark County. The nonattainment area, approximately 1,500 square miles, is bounded by the Spring Mountains to the west, the Pintwater, Desert, Sheep, and Las Vegas Mountains to the north, and Frenchman Mountain to the east. The McCullough Range and Big Spring Range close the area to the south.

Valley drainage flows to the south, toward the McCullough and Big Spring Ranges, then easterly through the Las Vegas Wash to Lake Mead. Las Vegas Valley's climate, at the edge of the Mojave Desert, is very dry and warm. Average annual precipitation is 4.2 inches. Temperatures through a year can range from daily maximums in July of 104 degrees Fahrenheit to average daily minimums in January of 33 degrees Fahrenheit. Climatic conditions, and Las Vegas' location in a broad valley, result in calm wind conditions during the winter. These low winds combine with temperature inversions and nighttime downslope drainage of air back into the valley, preventing effective dispersion of air pollutants.

CO Monitoring Network: EPA has established ambient air quality monitoring requirements and standards for State and Local Air Monitoring Stations (SLAMS) and for National Air Monitoring Stations (NAMS). These requirements and standards provide for operating schedules, data quality assurance, and for the design and siting of CO samplers.

The Clark County Health District began monitoring CO in Las Vegas Valley in the early 1970's and operated continuous CO monitors at two locations (East Charleston and Casino Center Blvd.) by the mid-1970's. Since then, the CO ambient monitoring network in Las Vegas Valley has evolved into a system of 15 monitoring sites. All of these stations are operated by the Clark County Department of Air Quality and Environmental Management (DAQEM), which is the local agency now responsible for the ambient air monitoring (and other regulatory) functions that had been conducted (*i.e.*, until mid-2001) by the Clark County Health District. Currently, for CO, DAQEM operates 7 SLAMS sites, 4 NAMS sites, and 4 special purpose monitoring sites. Each of these air quality monitoring stations uses a Dasibi CO Analyzer which employs the Gas Filter Correlation technique. The monitoring schedule for CO is continuous. Most of the CO monitoring sites are sited at the neighborhood scale with an objective of assessing population exposure. The South Las Vegas Boulevard station, located near an intersection with high traffic density, is designated as microscale.

In August 2001, EPA conducted a technical systems audit on DAQEM's ambient air monitoring program to assess its compliance with established regulations governing the collection, analysis, validation, and reporting of ambient air quality data. In our February 2002 report containing the findings of this audit, we concluded that, despite various program deficiencies, the data was suitable for use in regulatory decisions in light of substantial compliance with many of the quality control activities required by EPA regulations. Thus, we conclude that the CO data is appropriate for use in determining whether the Las Vegas Valley has attained the CO NAAQS. Our February 2002 audit report is included in the docket for this rulemaking.

CO Monitoring Data: The following table summarizes the CO data collected at the various CO monitoring stations in Las Vegas Valley in 1999 and 2000 and included in AQS.

SUMMARY OF CARBON MONOXIDE AIR QUALITY DATA LAS VEGAS VALLEY, CLARK COUNTY, NEVADA, 1999–2000

Monitoring site name and AQS number	2nd highest 8-hour concentration (ppm)			2nd highest 1-hour concentration (ppm)		
	1999	2000	Design value	1999	2000	Design value
Boulder City (32–003–0601)	0.6	1.1	1.1	1.1	1.3	1.3
City Center (32–003–0016)	5.6	4.8	5.6	8.5	7.2	8.5
Craig Road (32–003–0020)	2.7	1.8	2.7	2.9	3.0	3.0
Crestwood (32–003–0562)	5.8	5.1	5.8	7.8	6.9	7.8
East Flamingo (32–003–1022)	5.2	4.2	5.2	7.5	6.2	7.5
East Sahara (32–003–0539)	6.9	5.7	6.9	8.7	7.2	8.7
Health District (32–003–0021)	5.1	*ND	5.1	6.8	*ND	6.8
Green Valley (32–003–0298)	1.9	1.7	1.9	3.0	2.7	3.0
S. East Valley (32–003–0007)	1.7	1.5	1.7	3.3	2.8	3.3
Winterwood (32–003–0538)	6.5	4.1	6.5	8.3	6.0	8.3
Paul Meyer (32–003–0043)	2.0	1.6	2.0	2.8	3.0	3.0
Pittman (32–003–0107)	2.5	2.1	2.5	5.9	4.2	5.9
S. Las Vegas Blvd (32–003–1023)	4.4	3.7	4.4	6.9	5.6	6.9
Sunrise Acres (32–003–0561)	8.2	7.1	8.2	10.2	8.5	10.2
J.D. Smith (32–003–2002)	4.4	3.8	4.4	6.7	5.8	6.7
Area Design Value—Sunrise Acres	8-Hour CO Design Value: 8.2 ppm			1-Hour CO Design Value: 10.2 ppm		

Source: EPA Air Quality System (AQS) Database.
*ND = No Data.

As shown in the above table, the design values are less than 9.5 ppm (eight-hour average) and 35.5 ppm (one-hour average) at all of the sites. Therefore, we propose to find that the Las Vegas Valley attained the CO NAAQS by December 31, 2000, which is the applicable attainment date for this nonattainment area under the Act.

A review of data input to AQS indicates that Las Vegas Valley has continued to attain the CO NAAQS since the end of 2000. The highest 8-hour and 1-hour CO concentrations measured at the various monitoring stations during the 2001 through 2003 period were 7.2 ppm and 8.9 ppm, respectively (both at the Sunrise Acres station in 2001), which are well below the corresponding CO NAAQS of 9 ppm and 35 ppm, respectively. A ''quick look'' report generated using AQS for the Las Vegas Valley CO monitoring stations for the 2001 to 2003 period is included in the docket for this proposed rule.

II. Applicability of Clean Air Act Contingency Provisions

A. Background

In our proposal to approve SIP revisions submitted by the State of Nevada to provide for attainment of the CO NAAQS in the Las Vegas Valley Nonattainment Area (68 FR 4141, January 28, 2003), we concluded that the contingency measure requirements for the area under sections 172(c)(9) and 187(a)(3) of the Act were met by the implementation of standardized On-Board Diagnostics systems (OBD II) testing (as part of the vehicle inspection and maintenance (I/M) program). See 68 FR at 4157. In that proposal, we also proposed to disapprove two other contingency measures (*i.e.*, Lower I/M Program Cutpoints and On Road Remote Sensing) that had been submitted as part of the Las Vegas Valley serious area CO attainment plan, the *Carbon Monoxide State Implementation Plan, Las Vegas Valley Nonattainment Area, Clark County,* Nevada (August 2000). See 68 FR at 4157.

In the final rule, we approved the SIP revisions as we had proposed with the exception of the contingency provisions. With respect to the contingency provisions, we stated that objections raised by public comments on the appropriateness of our proposed approval of OBD II testing as fulfilling the contingency measure requirements under sections 172(c)(9) and 187(a)(3) of the Act (in addition to fulfilling an I/M requirement) and the fact that Clark County had yet to provide quantitative information on the emissions reductions associated with OBD II testing consistent with their commitment to do so had lead us to defer taking final action on the contingency provisions in that notice. See 69 FR 56351 (September 21, 2004). We indicated in that final rule that we would address the contingency provision requirements for Las Vegas Valley in a separate rulemaking. This proposal constitutes that rulemaking.

B. Effect of a Finding of Attainment by Applicable Attainment Date on CAA Contingency Measure Requirement

Upon our designation of Las Vegas Valley as a CO nonattainment area, Las Vegas Valley became subject to the contingency provisions set forth in subpart 1 (of title I of the Act) at section 172(c)(9) and in subpart 3 at section 187(a)(3). For the reasons described below, we believe that the contingency provisions under sections 172(c)(9) and 187(a)(3) are no longer required for CO nonattainment areas that are determined to have attained the CO NAAQS by the applicable attainment date.

Section 172(c)(9) requires a State to submit contingency measures that will be implemented if an area fails to make ''reasonable further progress'' (RFP) [1] or fails to attain by the applicable attainment date. Thus, the stated purpose of the contingency measure requirement is to ensure RFP (the purpose of which is to ensure attainment by the applicable attainment date) and attainment by the applicable attainment date. If an area has in fact attained the standard by the applicable attainment date, the stated purpose of the contingency measure requirement will have already been fulfilled. Consequently, we believe that the requirement for a State to submit revisions providing for measures to meet the contingency provisions of section 172(c)(9) no longer applies for an area that we find as having attained the relevant NAAQS by the applicable attainment date. We note that we took this view with respect to the general contingency measure requirement of section 172(c)(9) in our ''General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990'' at 57 FR 13498 (April 16, 1992). In the General Preamble, we stated, in the context of a discussion of the requirements applicable to the evaluation of requests to redesignate nonattainment areas to attainment, that the ''section 172(c)(9) requirements for contingency measures * * * no longer apply when an area has attained the standard and is eligible for redesignation.'' See 57 FR 13498, at 13564 (April 16, 1992). See also ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' from John Calcagni, Director, Air Quality Management Division, to Regional Air Division Directors, September 4, 1992 (*http://www.epa.gov/ttn/naaqs/ozone/ozonetech/940904.pdf*), at page 6.

Section 187(a)(3) identifies two circumstances for which contingency measures must be submitted. First, a State must submit contingency measures to be implemented if any estimate of vehicle miles traveled (VMT) in the area for any year prior to the attainment year that is submitted in an annual report under section 187(a)(2)(A) (''VMT tracking report'') exceeds the number predicted in the most recent prior forecast. This aspect of section 187(a)(3) supports reasonable further progress (RFP) by ensuring that the SIP contains a mechanism to correct for underprediction in the CO plan of VMT and related motor vehicle emissions in years prior to the attainment year, and thereby serves to help maintain the overall year-to-year reduction in CO emissions that is referred to as the RFP requirement. However, since the provision applies only to years prior to the attainment year and that year has already passed, and the purpose of RFP itself is fulfilled upon a finding of attainment by the applicable attainment date, we find that the additional support for RFP that would otherwise be provided through the application of section 187(a)(3) is no longer required upon that same finding of attainment by the applicable attainment date.

Second, under section 187(a)(3) of the Act, a State must submit contingency measures to be implemented if the area fails to attain the national primary ambient air quality standard for carbon monoxide by the primary standard attainment date. This aspect of section 187(a)(3), *i.e.*, failure to attain the CO NAAQS by the attainment date, essentially restates the requirement in section 172(c)(9) (''* * * measures to be undertaken if the area * * * fails to attain the national primary ambient air quality standard by the attainment date applicable under this part.'') As such, our interpretation of section 172(c)(9) described above that a State need no longer submit revisions providing for measures to meet the contingency provisions of section 172(c)(9) for areas that we find as having attained the CO NAAQS by the applicable attainment date applies equally to the

[1] RFP means ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' See section 171(1) of the Act.

corresponding provision in section 187(a)(3).

Therefore, based on our proposed finding that Las Vegas Valley has attained the CO NAAQS by the applicable attainment date (December 31, 2000), we propose to find that the contingency requirements under section 172(c)(9) and 187(a)(3) of the Act will no longer apply for the Las Vegas Valley CO nonattainment area at such time as we finalize our proposed attainment finding.

III. EPA's Proposed Action

EPA proposes to find, pursuant to sections 179(c)(1) and 186(b)(2) of the Act, that the Las Vegas Valley ''serious'' nonattainment area has attained the NAAQS for CO by the applicable attainment date. If finalized as proposed, our action will relieve the State of Nevada from the obligation under section 187(g) of the Act to prepare and submit a SIP revision providing for a reduction of CO emissions within Las Vegas Valley by at least five percent per year in each year after approval of the SIP revision until the CO NAAQS is attained. It should be noted that this proposed action does not represent a proposal to redesignate this area from ''nonattainment'' to ''attainment''. Under section 107(d)(3)(E), the Clean Air Act requires that, for an area to be redesignated from nonattainment to attainment, five criteria must be satisfied including the submittal by the State (and approval by EPA) of a maintenance plan as a SIP revision. Therefore, the designation status of Las Vegas Valley in 40 CFR part 81 is unaffected by this proposed action, and Las Vegas Valley will remain a ''serious'' nonattainment area for CO until such time as EPA finds that the State of Nevada has met the Clean Air Act requirements for redesignation to attainment.

Based on our proposed finding of attainment by the applicable attainment date, we are also proposing to determine that the CAA's requirement for the SIP to provide for CO contingency measures will no longer apply to Las Vegas Valley. In this instance, the State submitted contingency measures (as part of the Las Vegas Valley serious area CO plan adopted in August 2000), but we will continue to defer taking any further action on them under sections 172(c)(9) and 187(a)(3) of the Act in light of this proposed finding of attainment by the applicable attainment date and resulting determination that the contingency measure requirement no longer applies to the area. The State may elect to withdraw the contingency measures to lift the obligation on EPA under section 110(k) to act on SIP submittals within certain time periods. If we finalize this action as proposed, then the remaining FIP obligation (*i.e.*, relative to contingency measures) that was triggered 24 months after our finding of Nevada's failure to submit a serious area CO plan for Las Vegas Valley (*see* 64 FR 49084, September 10, 1999) will be permanently lifted.

IV. Request for Public Comment

We are soliciting public comment on all aspects of this proposal. These comments will be considered before taking final action. To comment on today's proposal, you should submit comments by mail or in person (in triplicate if possible) to the **ADDRESSES** section listed in the front of this document. Your comments must be received by February 22, 2005 to be considered in the final action taken by EPA.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to find that an area has attained a national ambient air quality standard based on an objective review of measured air quality data. It also proposes to determine that certain Clean Air Act requirements no longer apply so long as the area continues to attain the standard. If finalized, it would not impose any new regulations, mandates, or additional enforceable duties on any public, nongovernmental, or private entity. Accordingly, the Administrator certifies that this proposed 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 proposed rule does not impose any additional enforceable duty, 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 proposed 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 proposes to find that an area has attained a national ambient air quality standard and is therefore not subject to certain specific requirements for so long as the area continues to attain the standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed 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.

This proposed rule does not involve establishment of technical standards, and 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 proposed 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.*)

Authority: 42 U.S.C. 7401 *et seq.*

List of Subjects in 40 CFR Part 81

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

Dated: January 7, 2005.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 05–1119 Filed 1–19–05; 8:45 am]

BILLING CODE 6560–50–P

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

45 CFR Part 1801

Scholar Accountability Policy

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Notice of proposed rulemaking

SUMMARY: The Truman Scholarship Foundation [Foundation] proposes to amend its regulations with respect to Scholar accountability to the Foundation for scholarship funds received. This rule is to clarify existing Foundation policy.