

agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because conditional approval of SIP submittals under section 110 and subchapter I, part D of the Act does not create any new requirements but simply approves requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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 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.

The EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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. The 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 U.S. comptroller General prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 22, 1999. 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 in 40 CFR PART 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 30, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

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 SS—Texas

2. Section 52.2270 is amended by adding new paragraph (c)(120) to read as follows:

§ 52.2270 Identification of plan.

* * * * *
(c) * * *

(120) Revisions submitted by the Governor on May 29, 1997, June 23, 1998, and December 22, 1998, that change the definition of "primarily operated," commit to on-board diagnostic testing, remove the test-on-resale of vehicles subject to the inspection and maintenance program, and provide the legal authority for denial of re-registration of vehicles that have not complied with the I/M program requirements, and the establishment of a class C misdemeanor penalty for operating a grossly polluting vehicle in a nonattainment area.

(i) Incorporation by reference:

(A) Narrative of State Implementation Plan revision submitted May 29, 1997, by the Governor.

(B) Narrative of State Implementation Plan revision submitted June 23, 1998, by the Governor.

(C) Letter from the Governor dated December 22, 1998, submitting Senate Bill 1856.

(ii) Additional material:

(A) Senate Bill 1856.

(B) Memorandum of Agreement between the Texas Natural Resource Conservation Commission and the Texas Department of Public Safety adopted November 20, 1996, and signed February 5, 1997.

§ 52.2310 [Removed]

3. Section 52.2310, Conditional approval, is removed.

[FR Doc. 99-9460 Filed 4-22-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ33-2-191; FRL-6328-8]

Approval and Promulgation of Implementation Plans; New Jersey 15 Percent Rate of Progress Plans, Recalculation of 9 Percent Rate of Progress Plans and 1999 Transportation Conformity Budget Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a New Jersey State Implementation Plan (SIP) revision involving the State's Ozone plan. Specifically, EPA is approving the 15 Percent Rate of Progress (ROP) Plans, recalculation of the 9 Percent ROP Plans, revisions to the 1990 base year emission inventories, revisions to the

1996 and 1999 projection year emission inventories, and the 1999 transportation conformity budgets. The intended effect of this action is to approve programs required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the 1-hour national ambient air quality standard for ozone. In addition, this approved SIP revision corrects the deficiency which led EPA to disapprove, on December 12, 1997, New Jersey's 15 Percent ROP Plans.

Consequently, the sanction and Federal Implementation Plan (FIP) process that was started by EPA's disapproval are terminated. The sanction clock associated with the State's failure to implement the enhanced inspection and maintenance program continues to run.

EFFECTIVE DATE: This rule will be effective April 23, 1999.

ADDRESSES: Copies of the State's submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region II Office, Air Programs Branch,
290 Broadway, 25th Floor, New York,
New York 10007-1866.

New Jersey Department of
Environmental Protection, Office of
Air Quality Management, Bureau of
Air Pollution Control, 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, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Paul
R. Truchan, Air Programs Branch,
Environmental Protection Agency, 290
Broadway, 25th Floor, New York, New
York 10278, (212) 637-4249.

SUPPLEMENTARY INFORMATION:

I. Background

On March 1, 1999 (64 FR 9952), EPA proposed approval of New Jersey's State Implementation Plan (SIP) submittals of July 30, 1998 and February 10, 1999. The July and February SIP submittals address the requirements for the two severe ozone nonattainment areas in New Jersey—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. For the purposes of this action, these areas will be referred to as, respectively, the Northern New Jersey nonattainment area (NAA) and the Trenton NAA. The counties located within the Northern New Jersey NAA are: Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, and Union. The counties within the Trenton NAA

are: Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem.

The following Clean Air Act (CAA) requirements were included in the March 1, 1999 proposal: revisions to the 1990 base year ozone emission inventory; revisions to the 1996 and 1999 ozone projection emission inventories; and the 1999 transportation conformity budgets. EPA also proposed approval of New Jersey's 15 Percent Rate of Progress (ROP) Plans and recalculation of the 9 Percent ROP Plans. New Jersey's two SIP submittals revised the previously submitted 15 Percent ROP Plans and 9 Percent ROP Plans dated December 31, 1996 and February 25, 1997.

New Jersey's new 15 ROP Plans will achieve the required emission reductions by November 15, 1999. This is the same date that the reductions would have been achieved had the enhanced I/M program started on time. The new measures along with the previously approved measures in the new 15 Percent ROP Plans being approved today meets EPA's "as soon as practicable" criteria.

A detailed discussion of the SIP revisions and EPA's rationale for approving them is contained in the March 1, 1999 proposal and will not be restated here. The reader is referred to the proposal for more details.

II. Public Comments

In response to EPA's proposed action on this New Jersey SIP revision, no comments were received.

III. Federal Implementation Plan

On December 12, 1997, EPA announced by letter that its conditional approval of New Jersey's 15 Percent ROP Plans had converted to a disapproval because the enhanced inspection and maintenance program, which was part of the State's plans, did not start as scheduled and resulted in an emission reduction shortfall. This disapproval applied to the New Jersey portions of the two severe ozone nonattainment areas: the Northern New Jersey NAA and the Trenton NAA.

EPA's disapproval of New Jersey's 15 Percent ROP Plans triggered an obligation to promulgate a Federal Implementation Plan (FIP). For the Trenton NAA, EPA has been under a Consent Agreement to propose a FIP by January 15, 1999, and to adopt the FIP by August 15, 1999. EPA developed such a FIP and proposed it on January 22, 1999 (64 FR 3465).

Today's approval of the July 30, 1998 addendum and the February 10, 1999 State Implementation Plan revision for the Northern New Jersey and Trenton

nonattainment areas eliminates the shortfall identified in EPA's December 12, 1997 disapproval of New Jersey's 15 Percent ROP Plans and, thereby, terminates the sanction process associated with this deficiency and the requirement for EPA to promulgate a FIP. Therefore, EPA will not proceed with the FIP proposal which was published on January 22, 1999 (64 FR 3465). The sanction clock associated with the State's failure to implement the enhanced inspection and maintenance program, which was included in the December 12, 1997 disapproval, continues to run.

IV. Conclusion

EPA has evaluated these submittals for consistency with the CAA and Agency regulations and policy. EPA is approving New Jersey's: revisions to the 1990 base year ozone emission inventory; revisions to the 1996 and 1999 ozone projection emission inventories; 15 Percent ROP Plans, recalculation of the 9 Percent ROP Plans; and the 1999 transportation conformity budgets for the North Jersey Transportation Planning Authority, South Jersey Transportation Planning Organization, and Delaware Valley Regional Planning Commission.

EPA is making its approval of today's action effective upon the date of publication in the **Federal Register**, based upon a finding of good cause. Approval of this action would relieve restrictions that have been placed on New Jersey when EPA disapproved its SIP on December 12, 1997 and will not adversely affect other parties. The sanction clock associated with the State's failure to implement the enhanced inspection and maintenance program, which was included in the December 12, 1997 disapproval, continues to run.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive

Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1 of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This SIP approval is not subject to E.O. 13045 because it approves a state program implementing a Federal standard, and it is not economically significant under E.O. 12866.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with

those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995

("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 June 22, 1999. 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 12, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

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 *et seq.*

§ 52.1580 [Amended]

2. Section 52.1580 is amended by removing and reserving paragraph (b).

§ 52.1581 [Removed and Reserved]

3. Section 52.1581 is removed and reserved.

4. Section 52.1582 is amended by adding a sentence to the end of paragraph (d)(1) and by revising paragraphs (d)(3) and (d)(4) and adding new paragraph (g) as follows:

§ 52.1582 Control strategy and regulations: Ozone (volatile organic substances) and carbon monoxide.

* * * * *

(d)(1) * * * Revisions to the 1990 base year emission inventory dated February 10, 1999 for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas of New Jersey have been approved.

* * * * *

(3) The 1996 and 1999 ozone projection year emission inventories included in New Jersey's July 30, 1998 addendum and February 10, 1999 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas have been approved.

(4) The conformity emission budgets for the McGuire Air Force Base included in New Jersey's December 31, 1996 State Implementation Plan revision have been approved. The 1999 conformity emission budgets for the North Jersey Transportation Planning Authority, South Jersey Transportation Planning Organization and Delaware Valley Regional Planning Commission included in New Jersey's July 30, 1998 addendum and the February 10, 1999

State Implementation Plan revision have been approved.

* * * * *

(g) The 15 Percent Rate of Progress (ROP) Plans and the recalculation of the 9 Percent ROP Plans included in the July 30, 1998 addendum and the February 10, 1999 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas have been approved.

[FR Doc. 99-9872 Filed 4-22-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA126-0129a; FRL-6233-1]

Approval and Promulgation of Implementation Plans for Arizona and California; General Conformity Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves various revisions to State Implementation Plans (SIP) which contain regulations for implementing and enforcing the general conformity rules which the EPA promulgated on November 30, 1993. EPA is approving SIP revisions which contain general conformity rules for the Arizona SIP and the California SIP for the following California Air Pollution Control Districts (APCD) and Air Quality Management Districts (AQMD): El Dorado County APCD, Great Basin Unified APCD, Monterey Bay Unified APCD, San Joaquin Valley Unified APCD, Santa Barbara County APCD, South Coast AQMD, Feather River AQMD, Placer County APCD, Sacramento Metro AQMD, Imperial County APCD, Bay Area AQMD, San Diego County APCD, Butte County AQMD, Ventura County APCD, Mojave Desert AQMD and Yolo-Solano AQMD.

The approval of these general conformity rules into the SIP will result in the SIP criteria and procedures governing general conformity determinations instead of the Federal rules at 40 CFR Part 93, Subpart B for those actions under the jurisdiction of the SIPs. Federal actions by the Federal Highway Administration and Federal Transit Administration (under Title 23 U.S.C. or the Federal Transit Act) are covered by the transportation conformity rules under 40 CFR Part 51, Subpart T-Conformity to State or

Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act (and 40 CFR Part 93, Subpart A) and are not affected by this action.

EPA approves these SIP revisions under sections 110(k) and 176(c) of the Clean Air Act (CAA or the Act). A more detailed discussion of this action is provided below and in the support documentation.

DATES: This rule is effective on June 22, 1999 without further notice, unless EPA receives adverse comments by May 24, 1999. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to: Doris Lo, Planning Office [AIR2], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012
California Air Resources Board, 2020 L Street, P.O. Box 2815, Sacramento, California 95812
El Dorado County APCD, 2850 Fairlane Court, Placerville, California 95667
Great Basin Unified APCD, 157 Short Street, Suite #6, Bishop, California 93514
Monterey Bay Unified APCD, 24580 Silver Cloud Court, Monterey, California 93940
San Joaquin Valley Unified APCD, 1999 Tuolumne Street, Suite 200, Fresno, California 93721
Santa Barbara County APCD, 26 Castillian Drive, B-23, Goleta, California 93117
South Coast AQMD, 21865 E. Copley Drive, Diamond Bar, California 91765-4182
Feather River AQMD, 463 Palora Avenue, Yuba City, California 95991-4711
Placer County APCD, 11464 B Avenue, Auburn, California 95603
Sacramento Metro AQMD, 8411 Jackson Road, Sacramento, California 95826
Bay Area AQMD, 939 Ellis Street, San Francisco, California 94109
Imperial County APCD, 150 South Ninth Street, El Centro, California 92243-2850
San Diego County, APCD 9150 Chesapeake Drive, San Diego, California 92123-1096
Butte County AQMD, 9287 Midway, Suite 1A, Durham, California 95938
Ventura County APCD, 669 County Square Drive, Ventura, California 93003
Mojave Desert AQMD, 15428 Civic Drive, Suite 200 Victorville, California 92392-2383