

not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the EPA from basing its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2). The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

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 September 23, 1996. Filing a petition for reconsideration of this final rule by the Regional Administrator does not affect the finality of this rule for purposes of judicial review; nor does it extend the time within which a petition for judicial review may be filed, or postpone the effectiveness of this rule. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2) of the Act.

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

Unfunded Mandates

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

Through submission of this SIP or plan revision approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Act. The rules and commitments approved in this action may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules and commitments being approved by this action will impose or lead to the imposition of any mandate upon the State, local, or tribal governments, either as the owner or

operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, the EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, the EPA has determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

SIP Actions Exempt from OMB Review

This action has been classified for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Reporting and recordkeeping, Ozone, Volatile organic compounds.

Dated: June 12, 1996.

Allyn M. Davis,
Acting Regional Administrator.

40 CFR part 52 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 T—Louisiana

2. Section 52.970 is amended by adding paragraph (c)(64) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(64) Revisions to the Louisiana SIP addressing VOC RACT catch-up requirements were submitted by the Governor of Louisiana by letters dated December 21, 1992, and April 13, 1993.

(i) Incorporation by reference.

(A) Revisions to LAC, Title 33, Environmental Quality, Part III. Air; Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2103. Storage of Volatile Organic Compounds, paragraphs G., G.1., G.4.; section 2109. Oil/Water Separation, paragraph B.4.; section 2215. Waste Gas Disposal, introductory paragraph, paragraph H., H.5.; Subchapter B. Organic Solvents; section 2123. Organic Solvents, paragraph D.6.; Subchapter C. Vapor Degreasers; section 2125. Vapor Degreasers, paragraph D.; Subchapter F. Gasoline Handling; section 2131. Filling of Gasoline Storage Vessels, paragraphs D., D.1., D.3., G.; section 2135. Bulk Gasoline Terminals, paragraph A.; Subchapter H. Graphic Arts; section 2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes, paragraph B, as adopted by LDEQ on October 20, 1992.

(B) Revisions to LAC, Title 33, Environmental Quality, Part III. Air; Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2115. Waste Gas Disposal, introductory paragraph, paragraphs H.1., H.1.a. through H.1.d., H.2., H.2.a., H.2.b., H.3., L., as adopted by LDEQ on March 20, 1993.

(ii) Additional material.

(A) Letters dated November 10, 1992 and December 21, 1992, signed by Edwin Edwards, Governor of Louisiana.

(B) Letter dated April 14, 1993, signed by Edwin Edwards, Governor of Louisiana.

(C) Letter of negative declaration dated March 29, 1994, signed by Gustave Von Boduungen, P.E., Assistant Secretary, LDEQ.

* * * * *

[FR Doc. 96-18641 Filed 7-24-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[Region II Docket No. 142; SIPTRAX NJ15-2-6920, FRL-5524-3]

Approval and Promulgation of Implementation Plans; Revision to the New Jersey State Implementation Plan for Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document takes final EPA action on certain elements of a request by the State of New Jersey to revise its State Implementation Plan (SIP) for carbon monoxide. EPA is approving New Jersey's vehicle miles travelled forecast and multi-state coordination commitment and is giving a limited approval to New Jersey's new source review regulation, which covers all nonattainment pollutants. EPA will be taking future action on New Jersey's attainment demonstration and enhanced inspection and maintenance program in a separate Federal Register document. In a December 7, 1995 document EPA approved New Jersey's contingency measures and statewide emissions inventory. The contingency measures include transportation control measures which cover traffic flow improvements, park & ride lots, and increased ridesharing. In a February 12, 1996 document EPA approved New Jersey's oxygenated fuels rule. These revisions were required by the Clean Air Act as amended in 1990 and will contribute towards attaining the carbon monoxide standard.

EFFECTIVE DATE: This action is effective August 26, 1996.

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

Environmental Protection Agency,
Region II Office, Library, 16th Floor,
290 Broadway, New York, New York
10007-1866.

New Jersey Department of
Environmental Protection, Bureau of
Air Quality Planning, 401 East State
Street, CN027, Trenton, New Jersey
08625.

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

FOR FURTHER INFORMATION CONTACT:
Henry Feingersh, Air Programs Branch,
Environmental Protection Agency, 290
Broadway, New York, New York 10007-
1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION:**Background**

The Clean Air Act, as amended in 1990, sets forth a number of requirements that states had to submit as revisions to their State Implementation Plans (SIPs) by November 15, 1992 for areas designated as moderate nonattainment for carbon monoxide. These requirements are: an attainment demonstration, an enhanced vehicle inspection and maintenance (I/

M) program, an oxygenated fuels rule, a vehicle miles travelled forecast, contingency measures, a carbon monoxide emission inventory, a revised new source review program, and a multi-state coordination letter.

EPA has issued a "General Preamble" describing its preliminary views on how it intends to review SIPs and SIP revisions submitted in order to meet Title I requirements [see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. The reader should refer to the General Preamble for a more detailed discussion of the Title I requirements and what EPA views as necessary to adequately comply with Title I provisions.

On November 15, 1992, New Jersey submitted to EPA proposed revisions to its carbon monoxide SIP that addressed each of the above requirements for its two moderate carbon monoxide nonattainment areas. In addition, in a submittal dated October 4, 1993, New Jersey submitted to EPA information on transportation control measures which New Jersey will use as a contingency measure.

The New Jersey portion of the New York-Northern New Jersey-Long Island carbon monoxide nonattainment area is classified as a Moderate 2 area (an area that has a design value of 12.8-16.4 ppm). The New York-Northern New Jersey-Long Island carbon monoxide nonattainment area is part of the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Area and includes the counties of Bergen, Essex, Hudson, Union, and parts of Passaic County. The nonattainment area in Passaic County includes the cities of Clifton, Paterson, and Passaic. The remainder of the State is in attainment for carbon monoxide.

EPA published its proposed action on those parts of the New Jersey submittal covered by this document on November 10, 1994 (59 FR 56019). The reader is referred to that proposal for a detailed discussion of EPA's action. Comments were due by December 10, 1994. The State of New Jersey was the only commenter.

Public Comment

All of New Jersey's comments concerned EPA's proposed action on the State's Subchapter 18, "Control and Prohibition of Air Pollution From New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules)" (new source review regulation). In its November 10, 1994 Federal Register document EPA noted that New Jersey's Subchapter 18 lacked certain elements which are summarized as follows:

1. A provision that requires changes in existing permits providing offsets to be in effect by the time of permit issuance;

2. A process that provides information from nonattainment new source review permits to EPA's control technology clearinghouse;

3. A definition of "stationary source" which excludes the new category of "nonroad engines;"

4. Provisions for modifications in serious and severe ozone nonattainment areas required under sections 182(c)(6), (7) and (8) of the Clean Air Act;

5. A net air quality benefit test;

6. A methodology for calculating net emissions increase that adheres to EPA guidance and policy; and

7. Definitions for "initiation of construction" and "initiation of operation."

The November 10, 1994 Federal Register proposal contains detailed information on each of the aforementioned items.

The State commented that it will revise its regulations to address Items 1, 2, 5, and 7 on an expedited schedule and is currently doing so. However, the State has requested guidance from EPA on issues associated with Items 3, 4 and 6. As a result, there are still deficiencies in the rule that need to be corrected before it can be fully approved. It is EPA's position that these deficiencies must be addressed expeditiously. Until they are, the requirements related to the afore-referenced elements are currently in effect under the authority of the Clean Air Act, even in the absence of an applicable implementation plan addressing these requirements.

In the interim, EPA is moving forward by finalizing its proposed limited approval of New Jersey's new source review rule because it strengthens the existing New Jersey SIP by incorporating Clean Air Act requirements. Such requirements include, but are not limited to, new offset ratios, new applicability thresholds, and the NO_x requirements of section 182(f) for most ozone nonattainment areas.

Vehicle Miles Travelled Forecast

The New Jersey SIP is required under section 187(a)(2)(A) of the Clean Air Act to include a forecast of vehicle miles travelled through the year 1995. In addition, annual reports and annual updates are required of the State; the first of these was required by September 30, 1994. EPA finds that New Jersey has submitted documentation satisfying these requirements, and therefore, is approving New Jersey's vehicle miles travelled forecast SIP revision.

Multi-State Coordination

The New Jersey SIP is required under section 187(e) of the Clean Air Act to include a joint workplan to demonstrate early cooperation and integration of all states in the nonattainment area. This workplan consisted of a letter signed by former Director Nancy Wittenberg containing a detailed schedule of milestones and a commitment to coordinate with EPA and each of the states involved. EPA finds that New Jersey has fulfilled this requirement and approves the multi-state coordination commitment.

Further Action

EPA will be taking action on New Jersey's Subchapter 18, enhanced inspection and maintenance program, attainment demonstration, and conformity rules in future Federal Register documents.

New Jersey is currently in the process of adopting an enhanced inspection and maintenance program. Once this is submitted as a SIP revision and approved by EPA, the attainment demonstration (which relies on credit from the enhanced inspection and maintenance program) would also be acted upon by EPA.

Conclusion

EPA is fully approving New Jersey's vehicle miles travelled forecast and the multi-state coordination as revisions to New Jersey's carbon monoxide SIP. In addition, EPA is giving limited approval to New Jersey's Subchapter 18, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules)" effective March 15, 1993.

Once the remaining elements are approved, EPA can give a full approval to the carbon monoxide SIP. Therefore, EPA can only give the New Jersey carbon monoxide SIP a limited approval until action is taken on the remaining elements.

This document is issued as required by section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of section 110 of the Clean Air Act, and 40 CFR Part 51.

Nothing in this rule should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare

a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and Subchapter I, Part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. US EPA*, 427 US 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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

Through submission of this SIP or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under section 187 of the Clean Air Act. These rules may bind state, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the state, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated annual costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This rule may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 52

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

Dated: May 31, 1996.
William J. Muszynski,
Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(54) to read as follows:

§ 52.1570 Identification of plan.

* * * * *
(c) * * *
* * * * *

(54) Revisions to the New Jersey State Implementation Plan (SIP) for carbon monoxide concerning the control of

carbon monoxide from mobile sources, dated November 15, 1992 and November 21, 1994 submitted by the New Jersey State Department of Environmental Protection (NJDEP).
 (i) Incorporation by reference.
 (A) Chapter 27, Title 7 of the New Jersey Administrative Code Subchapter

18, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules)," effective March 15, 1993.
 (ii) Additional material.

(A) November 21, 1994, Technical update to the New Jersey Carbon Monoxide SIP.

3. In § 52.1605 the table is amended by removing the first entry for Title 7, Chapter 27: Subchapter 18 and revising the second entry to read as follows:

§ 52.1605 EPA-approved New Jersey State regulations.

State regulation	State effective date	EPA approved date	Comments
* * * Title 7, Chapter 27	*	*	*
* * * Subchapter 18, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules)."	Mar. 15, 1993	July 25, 1996	See July 25, 1996 for items not included in this limited approval.
* * *	*	*	*

[FR Doc. 96-18642 Filed 7-24-96; 8:45 am]
 BILLING CODE 6560-50-P

40 CFR Part 52

[Region II Docket No. 151; SIPTRAX NY12-2-6920, FRL-5524-5]

Approval and Promulgation of Implementation Plans; Revision to the New York State Implementation Plan for Carbon Monoxide; Determination of Length of Control Period for New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Area

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the approval of portions of a request by the State of New York to revise its State Implementation Plan for Carbon Monoxide. EPA is approving New York's carbon monoxide plan which includes a vehicle miles travelled forecast, carbon monoxide emission inventory, multi-state coordination commitment, and Downtown Brooklyn Master Plan. EPA is also approving the State's use of the wintertime gasoline volatility program as a contingency measure. In addition, EPA is partially approving the State's oxygenated fuels rule. EPA will be taking action on New York's attainment demonstration, revised new source review program, conformity rules, and enhanced vehicle inspection and maintenance program in a separate Federal Register action.

These revisions were required by the Clean Air Act as amended in 1990 and will contribute towards attaining the carbon monoxide standard. EPA is also

determining that the period prone to high ambient concentrations of carbon monoxide in the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Area extends for the four month period from November 1 through the last day of February. This is the control period for carbon monoxide when State programs in this area must require oxygenated gasoline.
EFFECTIVE DATE: This action is effective August 26, 1996.

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

- Environmental Protection Agency, Region II Office, Library, 16th Floor, 290 Broadway, New York, New York 10007-1866.
- New York Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.
- 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: Henry Feingersh, Air Programs Branch, Environmental Protection Agency, 290 Broadway, New York, New York 10007-1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act, as amended in 1990, sets forth in Title I a number of requirements applicable to areas designated as moderate nonattainment for carbon monoxide (CO). Among these

is the requirement that by November 15, 1992 the State Implementation Plans (SIP) for such areas be revised to include the following: an attainment demonstration, an enhanced vehicle emission inspection and maintenance (I/M) program, an oxygenated fuels rule, a vehicle miles travelled forecast, contingency measures, a CO emission inventory, a revised new source review program, and a multi-state coordination letter.

EPA has issued a "General Preamble" describing its preliminary views on how it intends to review SIPs and SIP revisions submitted in order to meet Title I requirements [see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. The reader should refer to the General Preamble for a more detailed discussion of the Title I requirements and what EPA views as necessary to comply adequately with Title I provisions.

On November 13, 1992, New York submitted to EPA proposed revisions to its CO SIP that addressed each of the aforementioned requirements for its moderate CO nonattainment area. In addition, in a submittal dated March 21, 1994, New York submitted additional information on the subject.

The New York portion of the New York-Northern New Jersey-Long Island CO nonattainment area is classified as a moderate 2 area (an area that has a design value of 12.8-16.4 ppm). This area, which is part of the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Area (CMSA), includes the Counties of Bronx, Kings, New York, Queens,