C. Petitions for Judicial Review

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2004. Filing a petition for reconsideration by the Administrator of this final rule approving ACHD's regulation for a FESOP program 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 civil or criminal enforcement proceedings. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: August 18, 2004.

Richard J. Kampf,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(209) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(209) Revisions for a federally enforceable state operating permit program applicable in Allegheny County, Pennsylvania submitted on November 9, 1998 and March 1, 2001 by the Pennsylvania Department of Environmental Protection on behalf of the Allegheny County Health Department:

(i) Incorporation by reference.

(A) Letters of November 9, 1998 and March 1, 2001 from the Pennsylvania Department of Environmental Protection, on behalf of the Allegheny County Health Department, transmitting a federally enforceable state operating permit program.

(B) Addition of the following Allegheny County Health Department Rules and Regulations, Article XXI Air Pollution Control:

(*1*) Regulation 2101.05, Regulation 2103.12—effective March 31, 1998.

(*2*) Regulation 2103.01, Regulation 2103.11, Regulation 2103.13, Regulation 2103.15—effective October 20, 1995.

(*3*) Regulation 2103.14—effective January 12, 2001.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(209)(i) of this section.

[FR Doc. 04–19715 Filed 8–27–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. R02–OAR–2004–NJ–0002, FRL–7807–6]

Approval and Promulgation of Implementation Plans; New Jersey; Revised Motor Vehicle Transportation Conformity Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the New Jersey State Implementation Plan (SIP) transportation conformity budgets for carbon monoxide and ozone precursors. These budgets are being revised to reflect updated modeling estimates, as well as updated vehicle registration data. The intended effect of this action is to approve a SIP revision that will help the State continue to maintain the carbon monoxide National Ambient Air Quality Standards (NAAQS) and to continue progress in attaining the 1-hour NAAQS for ozone in the Northern New Jersey-New York-Long Island nonattainment area (NAA).

DATES: This rule will be effective August 30, 2004.

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

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

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

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

FOR FURTHER INFORMATION CONTACT: Reema Persaud, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

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I. Background

On June 28, 2004 (69 FR 36035), EPA published a notice of proposed rulemaking regarding a SIP revision submitted by the State of New Jersey for its portions of the two severe ozone NAAs—the New York-Northern New Jersey-Long Island Area and the Philadelphia-Wilmington-Trenton Area. For purposes of this action, these areas will be referred to as the Northern New Jersey NAA and the Trenton NAA, respectively. The proposal also addressed statewide revisions to the CO maintenance plan.

The SIP revision was proposed under a procedure called parallel processing, whereby EPA proposes a rulemaking action concurrently with a state's procedures for amending its regulations. The proposed SIP revision was initially submitted to EPA on March 15, 2004 and the final SIP revision was formally submitted on May 21, 2004. A detailed description of New Jersey's submittal and EPA's rationale for the proposed action were presented in the June 28, 2004 notice of proposed rulemaking and will not be restated here.

New Jersey made one administrative change from the proposal based on a comment they received. The written comment suggested that carbon monoxide budgets for all of the unclassified areas contained in Appendix I of the State's Proposed SIP submittal be included in tables within the main document. The May 21, 2004 document submitted by the State incorporated this change. Table 1 in this final approval notice incorporates the unclassified area budgets previously contained in Appendix I of the State's proposal.

II. Comment

EPA received one comment on the June 28, 2004 proposal. The comment was submitted on July 28, 2004. The commentor stated a general opposition which did not address a specific aspect of the proposed plan.

EPA Response: EPA requires the use of the most recent MOBILE model when performing transportation conformity

analyses and in order to perform these analyses the best available data must also be used. New Jersey submitted these new budgets to meet this requirement. These new budgets will enable state and local governments to more accurately plan transportation projects and ensure that ambient air quality is attained.

III. What Are the Details of EPA's Specific Actions?

A. Emission Inventories and Budgets Revised With MOBILE6

New Jersey's May 21, 2004 SIP revision contained revised motor vehicle emissions budgets recalculated using MOBILE6 and updated motor vehicle registration data. The carbon monoxide (CO) budgets for North Jersey Transportation Planning Authority (NJTPA), as well as South Jersey Transportation Planning Organization (SJTPO) and Delaware Valley Regional Planning Commission (DVRPC), were updated using MOBILE6 modeling. For the analysis years and other conditions of the CO budgets the MOBILE6 model predicts significantly greater CO emissions than MOBILE5. However, the CO air quality monitors reflect that actual emission and the monitoring trends and emission trends over time are still downwards so the updates to the CO budgets do not affect the conclusion of the maintenance plans for each CO maintenance area.

VOC and NO_X budgets were also updated for the NJTPA because of a significant change in planning assumptions involving vehicle registration information. An analysis was performed that compared these updated budgets in MOBILE6 to MOBILE5 based budgets that were representative of the one-hour ozone attainment demonstration. The analysis demonstrated that the updated budgets continue to support predicted achievement of rate of progress and projected attainment of the one-hour ozone NAAQS. EPA is approving these budgets as part of New Jersey's SIP.

Table 1 below summarizes the revised Reasonable Further Progress (RFP) and attainment year motor vehicle emissions inventories statewide and by nonattainment area in tons per day (tpd).

TABLE 1.—NEW JERSEY MOTOR VEHICLE EMISSIONS BUDGETS

	CO emissions (tons per winter day)			VOC emissions (tons per ozone day)		NO_X emissions (tons per ozone day)	
	1997	2007	2014	2005	2007	2005	2007
North Jersey Transportation Planning Authority (NJTPA).	[1] 1550.	[1] 783.39 Monmouth Co. 231.55 Morris Co. 244.05 Middlesex Co. 244.99 Somerset Co. 135.92 Ocean Co. 126.79	605.63	[2] 148.27	[2] 125.82	[2] 253.06	[2] 198.34
South Jersey Transportation Planning Organization (SJTPO).	[3] NA	Atlantic Co. 91.68 Salem Co. 31.99	NA	NA	NA	NA	NA
Delaware Valley Regional Planning Commission (DVRPC).	NA	Burlington Co. 170.43 Camden Co. 149.73 Mercer Co. 128.49	NA	NA	NA	NA	NA

[1] For Passaic, Bergen, Essex, Hudson and Union counties.
[2] For all counties within the MPO.
[3] NA—Budget revisions not applicable.

IV. Conclusions

EPA is taking final action to approve New Jersey's May 21, 2004 SIP revision. In accordance with the parallel processing procedures, EPA has evaluated New Jersey's final SIP revision submitted on May 21, 2004, and finds that no substantial changes were made from the proposed SIP revision submitted on March 15, 2004. The submittal revises New Jersey's transportation conformity budgets for CO and ozone precursors based on MOBILE6 modeling, which incorporated 2002 vehicle registration data. The updates to the CO budgets do not affect the continued maintenance of the CO NAAQS for each CO maintenance area. The updated VOC and NO_X budgets continue to support the predicted achievements of the rate of progress and the projected attainment of the 1-hour ozone NAAQS for Northern New Jersey/NewYork City/Long Island nonattainment area by the attainment date of 2007.

V. Statutory and Executive Order Reviews

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. section 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 29, 2004. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 18, 2004.

Jane M. Kenny,

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.*

Subpart FF—New Jersey

■ 2. Section 52.1581 is amended by adding paragraph (d) to read as follows:

§ 52.1581 Control strategy: Carbon monoxide.

* * * * *

(d) The 1997, 2007, and 2014 carbon monoxide conformity emission budgets for five counties in the New York/Northern New Jersey/Long Island carbon monoxide maintenance area and ten other counties representing other carbon monoxide maintenance areas included in New Jersey's May 21, 2004 SIP revision are approved.

■ 3. Section 52.1582 is amended by adding paragraph (j) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone.

* * * * *

(j)(1) The revised 1997, 2005, 2007 and 2014 motor vehicle emission inventories calculated using MOBILE6 included in New Jersey's May 21, 2004 State Implementation Plan revision is approved.

(2) The 2005 conformity emission budgets for the New Jersey portion of the Philadelphia/Wilmington/Trenton nonattainment area and the 2005 and 2007 conformity emission budgets for the New Jersey portion of the New York/Northern New Jersey/Long Island nonattainment area included in New Jersey's May 21, 2004 State Implementation Plan revision are approved.

[FR Doc. 04–19714 Filed 8–27–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[Docket # ID–04–003a; FRL–7801–6]

Changing the Ozone Monitoring Season in Idaho From April Through October to May Through September

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Currently the ozone monitoring season for Idaho is April through October. Based on the ozone monitoring season in adjacent states with similar climatology, and analysis of existing ozone monitoring data collected in Boise, EPA is approving a change in the ozone monitoring season for Idaho to the months of May through September.

DATES: This direct final rule is effective October 29, 2004, unless EPA receives adverse comments by September 29, 2004. If relevant adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. ID–04–003, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- E-mail: *r10.aircom@epa.gov.*
- Fax: (206) 553–0110.
- Mail: Keith A. Rose, Office of Air, Waste and Toxics, Environmental Protection Agency Region 10, Mail code: OAQ–107, 1200 Sixth Ave., Seattle, Washington 98101.