

required approval of the board of directors, a committee of the board of directors, an SEO, or an executive officer with a similar level of responsibility were properly approved;

\* \* \* \* \*

(xi) [Identify TARP recipient] will disclose the amount, nature, and justification for the offering during the period beginning on the later of the closing date of the agreement between the TARP recipient and Treasury or June 15, 2009 and ending with the last day of the TARP recipient's fiscal year containing that date of any perquisites, as defined in the regulations and guidance established under section 111 of EESA, whose total value exceeds \$25,000 for any employee who is subject to the bonus payment limitations identified in paragraph (viii);

\* \* \* \* \*

(xv) [Identify TARP recipient] has submitted to Treasury a complete and accurate list of the SEOs and the twenty next most highly compensated employees for the current fiscal year and the most recently completed fiscal year, with the non-SEO's ranked in descending order of level of annual compensation, and with the name, title, and employer of each SEO and most highly compensated employee identified; and[.]

\* \* \* \* \*

#### Appendix B to § 30.15—Model Certification for Years Following First Fiscal Year Certification

\* \* \* \* \*

(ii) The compensation committee of [identify TARP recipient] has identified and limited during any part of the most recently completed fiscal year that was a TARP period any features of the SEO compensation plans that could lead SEOs to take unnecessary and excessive risks that could threaten the value of [identify TARP recipient] and has identified any features of the employee compensation plans that pose risks to [identify TARP recipient] and has limited those features to ensure that [identify TARP recipient] is not unnecessarily exposed to risks;

(iii) The compensation committee has reviewed, at least every six months during any part of the most recently completed fiscal year that was a TARP period, the terms of each employee compensation plan and identified any features of the plan that could encourage the manipulation of reported earnings of [identify TARP recipient] to enhance the compensation of an employee, and has limited any such features;

\* \* \* \* \*

(ix) [Identify TARP recipient] and its employees have complied with the excessive or luxury expenditures policy, as defined in the regulations and guidance established under section 111 of EESA, during any part of the most recently completed fiscal year that was a TARP period; and any expenses that, pursuant to the policy, required approval of the board of directors, a committee of the board of directors, an SEO, or an executive officer with a similar level of responsibility were properly approved;

\* \* \* \* \*

(xi) [Identify TARP recipient] will disclose the amount, nature, and justification for the offering, during any part of the most recently completed fiscal year that was a TARP period, of any perquisites, as defined in the regulations and guidance established under section 111 of EESA, whose total value exceeds \$25,000 for any employee who is subject to the bonus payment limitations identified in paragraph (viii);

\* \* \* \* \*

(xv) [Identify TARP recipient] has submitted to Treasury a complete and accurate list of the SEOs and the twenty next most highly compensated employees for the current fiscal year, with the non-SEO's ranked in descending order of level of annual compensation, and with the name, title, and employer of each SEO and most highly compensated employee identified; and".

\* \* \* \* \*

Dated: November 30, 2009.

**Herbert M. Allison, Jr.,**

*Assistant Secretary for Financial Stability.*

[FR Doc. E9-29027 Filed 12-4-09; 8:45 am]

**BILLING CODE 4810-25-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2009-0638; FRL-9088-8]

#### Determinations of Attainment of the One-Hour and Eight-Hour Ozone Standards for Various Ozone Nonattainment Areas in New Jersey and Upstate New York

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is determining that various ozone nonattainment areas in New York and New Jersey have attained the one-hour and eight-hour National Ambient Air Quality Standards (NAAQS) for ozone. For the one-hour standard, the areas are the Atlantic City and Warren County areas in New Jersey and the Albany-Schenectady-Troy, Buffalo-Niagara Falls, Essex County, Jefferson County, and Poughkeepsie areas in New York. For the 1997 eight-hour standard, the areas are Buffalo-Niagara Falls, Jamestown, Poughkeepsie and Essex County in New York. These determinations are based upon certified ambient air monitoring data that show each area has monitored attainment of ozone NAAQS based on complete, quality-assured ambient air monitoring data for the three-year period ending in 2008. These data demonstrate that the one-hour and eight-hour ozone standards have been attained in these areas. These areas that have attained the one-hour standard have completed their

progress toward achieving the one-hour health standard. For the areas that have attained the eight-hour standard, the requirements for the State to submit certain reasonable further progress plans, attainment demonstrations, contingency measures and any other planning requirements of the Clean Air Act related to attainment of the ozone standards are suspended for as long as the areas continue to attain the eight-hour ozone standard. These determinations of attainment are not redesignations of these areas to attainment. Redesignations must meet additional requirements, including an approved plan to maintain compliance with the air quality standard for ten years after redesignation. In addition, preliminary data for 2009 show that these areas continue to attain the standard.

**DATES:** *Effective Date:* This rule is effective on January 6, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R02-OAR-2008-0638. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Programs Branch, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866. To make your visit as productive as possible, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Kelly, Air Programs Branch, Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866, telephone number (212) 637-4249, fax number (212) 637-3901, e-mail [kelly.bob@epa.gov](mailto:kelly.bob@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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- I. EPA's Action
- II. The Effect of EPA's Action
- III. Final Action
- IV. Statutory and Executive Order Reviews

## I. EPA's Action

EPA is determining that the Atlantic City area and Warren County in New Jersey and the Albany-Schenectady-Troy, Buffalo-Niagara Falls, Essex County, Jefferson County, and Poughkeepsie areas in New York are certified as attaining the one-hour ozone national ambient air quality standard (NAAQS). The Buffalo-Niagara Falls, Jamestown, Poughkeepsie and Essex County eight-hour ozone nonattainment areas in New York have attained the 1997 eight-hour NAAQS for ozone. These determinations are based upon certified ambient air monitoring data that show the areas have monitored attainment of the ozone NAAQS for the three year period from 2006 to 2008. All these data are available in the EPA Air Quality System (AQS) database.

The rationale for EPA's determination is explained in the Proposed Rulemaking published on September 23, 2009 (74 FR 48498) and will not be restated here. No public comments were received on the proposal.

## II. The Effect of EPA's Action

The following areas subject to the one-hour standard have completed their progress toward achieving the one-hour health standard: the Atlantic City area and Warren County in New Jersey, and the Albany-Schenectady-Troy, Buffalo-Niagara Falls, Essex County, Jefferson County, and Poughkeepsie areas in New York.

For the areas that attained the eight-hour standard, that is, the Buffalo-Niagara Falls, Jamestown, Poughkeepsie and Essex County ozone nonattainment areas this determination suspends the requirements for various State Implementation Plan (SIP) items, including, where applicable, the requirement to submit an attainment demonstration, a reasonable further progress plan, and section 172(c)(9) contingency measures for the eight-hour ozone NAAQS for so long as these areas continue to attain the ozone NAAQS. EPA makes this determination under the provisions of EPA's ozone implementation rule (*see* 40 CFR 51.918).

This action does not constitute a redesignation to attainment under Clean Air Act (CAA) section 107(d)(3), because these areas do not have approved maintenance plans as required under section 175A of the CAA, nor are there determinations that the areas have met the other requirements for redesignation. The classification and designation status of these areas will not change from nonattainment for the eight-hour ozone NAAQS until such

time as EPA determines that they meet the CAA requirements for redesignation to attainment.

If EPA subsequently determines that any of these areas has violated the current eight hour ozone standard, after notice-and-comment rulemaking in the **Federal Register**, the basis for the suspension of these requirements would no longer exist for that area, and the area that violated the eight hour standard would have to address the pertinent requirements.

## III. Final Action

EPA is determining the following areas have attained the 1-hour standard: the Atlantic City and Warren County areas in New Jersey and the Albany-Schenectady-Troy, Buffalo-Niagara Falls, Essex County, Jefferson County, and Poughkeepsie areas in New York. EPA is also determining that the following areas in New York have attained the eight hour standard: Buffalo-Niagara Falls, Jamestown, Poughkeepsie and Essex County (Whiteface Mountain). For the eight hour ozone nonattainment areas, as provided in 40 CFR 51.918, this determination suspends the requirements for New York to submit attainment demonstrations, reasonable further progress plans, and contingency measures under section 172(c)(9), and any other planning SIP related to attainment of the eight hour ozone NAAQS for these areas, where applicable. If an area no longer attains the standard, that area must submit the required SIP planning elements required by the CAA.

## IV. 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 makes a determination based on air quality data, and results in the suspension of certain Federal requirements. 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 makes a determination based on air quality data, and results in the suspension of certain Federal requirements, 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), because it merely makes a determination based on air quality data and results in the suspension of certain Federal requirements, 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 determines that air quality in the affected area is meeting Federal standards.

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 because it would be inconsistent with applicable law for EPA, when determining the attainment status of an area, to use voluntary consensus standards in place of promulgated air quality standards and monitoring procedures that otherwise satisfy the provisions of the Clean Air Act.

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.*).

Under Executive Order 12898, EPA finds that this rule involves a determination of attainment based on air quality data and will not have disproportionately high and adverse human health or environmental effects on any communities in the area, including minority and low-income communities.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 5, 2010. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 24, 2009.

**George Pavlou,**

*Acting Regional Administrator, Region 2.*

■ Part 52 of 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 52.1582 is amended by revising paragraph (l) to read as follows:

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

\* \* \* \* \*

(l) *Attainment Determination.* EPA is determining that the 1-hour ozone nonattainment areas in New Jersey listed below have attained the 1-hour ozone standard on the date listed and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) (contingency measures) of the Clean Air Act do not apply to these areas.

(1) Philadelphia-Wilmington-Trenton (consisting of Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem Counties) as of November 15, 2005. EPA also has determined, as of November 15, 2005, the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

(2) Atlantic City (consisting of Atlantic and Cape May Counties) as of *January 6, 2010.*

(3) Warren County as of *January 6, 2010.*

\* \* \* \* \*

#### Subpart HH—New York

■ 2. Section 52.1683 is amended as follows:

■ a. By revising paragraph (f)(1).

■ b. In paragraph (f)(2)(i) by removing the comma at the end of the paragraph and adding a period in its place.

■ c. In paragraph (f)(2)(ii) by removing “, and” at the end of the paragraph and adding in its place a period.

■ d. By adding paragraphs (f)(2)(iv), (f)(2)(v), (f)(2)(vi), and (f)(2)(vii).

##### § 52.1683 Control strategy: Ozone.

\* \* \* \* \*

(f) \* \* \*

(1) EPA is determining that the 1-hour ozone nonattainment areas in New York listed below have attained the 1-hour ozone standard on the date listed and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) (contingency measures) of the Clean Air Act do not apply to these areas.

(i) Albany-Schenectady-Troy (consisting of Albany, Greene, Montgomery, Rensselaer, Saratoga, and Schenectady Counties) as of *January 6, 2010.*

(ii) Buffalo-Niagara Falls (consisting of Erie and Niagara Counties) as of *January 6, 2010.*

(iii) Essex County as of *January 6, 2010.*

(iv) Jefferson County, as of *January 6, 2010.*

(v) Poughkeepsie (consisting of Dutchess, and Putnam Counties and northern Orange County) as of *January 6, 2010.*

(2) \* \* \*

(iv) Buffalo-Niagara Falls (consisting of Erie and Niagara Counties) as of *January 6, 2010.*

(v) Jamestown (consisting of Chautauqua County) as of *January 6, 2010.*

(vi) Poughkeepsie (consisting of Dutchess, Orange and Putnam Counties) as of *January 6, 2010.*

(vii) Essex County (consisting of Whiteface Mountain) as of *January 6, 2010.*

\* \* \* \* \*

[FR Doc. E9-28971 Filed 12-4-09; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[EPA-R04-OAR-2009-0338-200908; FRL-9089-1]

#### Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; North Carolina: Redesignation of Great Smoky Mountains National Park 1997 8-Hour Ozone Nonattainment Area to Attainment

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a request submitted on July 24, 2009, from the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR), Division of Air Quality (DAQ), to redesignate the Great Smoky Mountains National Park (GSMNP) 1997 8-hour ozone nonattainment area (herein referred to as the “GSMNP Area”) to attainment for the 1997 8-hour ozone national ambient air quality standards (NAAQS). The GSMNP Area for the 1997 8-hour ozone standard is comprised of portions of Haywood and Swain Counties in North Carolina. EPA’s approval of the redesignation request is based on the determination that the GSMNP Area has met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA), including the determination that the GSMNP Area has attained the 8-hour ozone standard. Additionally, EPA is approving a revision to the North Carolina State Implementation Plan (SIP) including the 8-hour ozone maintenance plan for the GSMNP Area that contains the new 2011 and 2020 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and an insignificance finding for volatile organic compounds (VOC) contribution from motor vehicles to the 8-hour ozone pollution in the GSMNP Area. Through this action, EPA is also finding the NO<sub>x</sub> MVEBs and the VOC insignificance finding adequate for the purposes of transportation conformity. This action also approves the emissions inventory submitted with the maintenance plan