

requirements preclude the use of the five-day advance notice provision, no advance notice will be required for violations of SIP requirements contained in permits.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

**Note:** Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: July 9, 1998.

**Chuck Clarke,**

*Regional Administrator, Region 10.*

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 MM—State of Oregon

2. Section 52.1970 is amended by adding paragraph (c) (126) to read as follows:

#### § 52.1970 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(126) On August 31, 1995, and October 8, 1996, the Director of ODEQ submitted to the Regional Administrator of EPA revisions to its Oregon SIP: the Oregon Administrative Rules (OAR) Chapter 340, Division 25, Specific Industrial Standards (OAR 340-25-305, 320 and 325).

(i) Incorporation by reference.

(A) August 31, 1995, letter from ODEQ to EPA submitting a revision to the Oregon Administrative Rules (OAR); OAR 340-25-305, State effective on February 17, 1995.

(B) October 8, 1996, letter from ODEQ to EPA submitting a revision to the Oregon Administrative Rules (OAR); OAR 340-25-320 and OAR 340-25-325, State effective on January 29, 1996.

[FR Doc. 98-19834 Filed 7-23-98; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[CA-189-0078(a); FRL-6127-1]

#### Approval and Promulgation of State Implementation Plans and Redesignation of the South Coast Air Basin in California to Attainment for Nitrogen Dioxide

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on attainment and maintenance plans and a request submitted by the California Air Resources Board (CARB) to redesignate the South Coast Air Basin (South Coast) from nonattainment to attainment for the National Ambient Air Quality Standards (NAAQS) for Nitrogen Dioxide (NO<sub>2</sub>). Under the Clean Air Act (CAA), designations can be revised if sufficient data are available to warrant such revisions. In this action, EPA is approving the attainment and maintenance plans as revisions to the California State Implementation Plan (SIP), and EPA is also approving the State's request to redesignate the South Coast to attainment because the plans and request meet the requirements set forth in the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision and grant the redesignation request should relevant adverse comments be filed.

**DATES:** This rule is effective September 22, 1998 unless the Agency receives relevant adverse comments to the rulemaking by August 24, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments should be addressed to the EPA contact below. The rulemaking docket for this notice may be inspected and copied at the following location during normal business hours. A reasonable fee may be charged for copying parts of the docket.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR-2), 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the SIP materials are also available for inspection at the addresses listed below:

California Air Resources Board, 2020 L Street, Sacramento, CA 92123-1095  
South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4182

**FOR FURTHER INFORMATION CONTACT:** Dave Jesson, Air Planning Office (AIR-2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901. Telephone: (415) 744-1288.

#### SUPPLEMENTARY INFORMATION:

##### I. Clean Air Act Requirements

Under section 109 of the CAA, EPA established primary and secondary NAAQS for NO<sub>2</sub> in 1971, and slightly revised the NAAQS in 1985.<sup>1</sup> The level of both the primary and secondary NAAQS is 0.053 parts per million (ppm), or 100 micrograms per cubic meter, annual arithmetic mean concentration. The standards are attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, based upon hourly data that are at least 75% complete.<sup>2</sup>

The Federal CAA was substantially amended in 1990 to establish new planning requirements and attainment deadlines for the NAAQS. Under section 107(d)(1)(C) of the amended Act, an area designated nonattainment prior to enactment of the 1990 amendments (as was the South Coast Air Basin) was designated nonattainment by operation of law.<sup>3</sup> Under section 191 of the Act, an NO<sub>2</sub> area designated nonattainment under section 107(d) was required to submit to EPA within 18 months of the

<sup>1</sup> See 34 FR 8186, April 30, 1971, and 50 FR 25544, June 19, 1985, codified at 40 CFR 50.11. Nitrogen dioxide is a light brown gas that can irritate the lungs and lower resistance to respiratory infections such as influenza. The principal sources of nitrogen oxides are high-temperature combustion processes, such as those occurring in motor vehicles and power plants.

<sup>2</sup> EPA's monitoring requirements for NO<sub>2</sub> are codified at 40 CFR 50, Appendix F. In determining whether an NO<sub>2</sub> nonattainment area has attained the NAAQS, EPA considers not only the most recent four quarters of monitored ambient air quality data available, but also the previous four quarters of monitoring data "to assure that the current indication of attainment was not the result of a single year's data reflecting unrepresentative meteorological conditions." 43 FR 8962 (March 3, 1978).

<sup>3</sup> By the date of enactment of the 1990 amendments, the South Coast was the only remaining area in the country designated as nonattainment for NO<sub>2</sub>. For a description of the boundaries of the South Coast Air Basin (also known as the Los Angeles-South Coast Air Basin Area), see 40 CFR 81.305. The nonattainment area includes all of Orange County and the non-desert portions of Los Angeles, San Bernardino, and Riverside Counties.

designation a plan meeting the requirements of Part D of the Act. Under section 192 of the Act, such plans were required to provide for attainment of the NAAQS as expeditiously as practicable but no later than 5 years from the date of designation. In addition, Section 172 of the Act contains general requirements applicable to SIPs for nonattainment areas.

The most fundamental of the CAA provisions for NO<sub>2</sub> nonattainment areas is the requirement that the State submit a SIP demonstrating attainment of the NAAQS as expeditiously as practicable but no later than the applicable CAA deadline. Such a demonstration must provide enforceable measures to achieve emission reductions each year leading to emissions at or below the level predicted to result in attainment of the NAAQS throughout the nonattainment area.

EPA has issued a "General Preamble" describing the Agency's preliminary views on how EPA intends to act on SIPs submitted under Title I of the Act. 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 EPA's preliminary interpretations of Title I requirements. In this rulemaking action, EPA is applying these policies to the South Coast NO<sub>2</sub> SIP submittal, taking into consideration the specific factual issues presented.

Section 107(d)(3)(E) of the 1990 CAA Amendments provides five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

1. The area must have attained the applicable NAAQS;
2. The area must have a fully approved SIP under section 110 of CAA;
3. The air quality improvement must be permanent and enforceable;
4. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA; and
5. The area must meet all applicable requirements under section 110 and Part D of the CAA.

## II. Description of SIP Submittal

On February 5, 1997, CARB submitted as a revision to the California SIP the 1997 Air Quality Management Plan (AQMP) for the South Coast Air Basin (SCAB), Antelope Valley, and Coachella Valley, adopted by the South Coast Air Quality Management District (SCAQMD) on November 15, 1996. This submittal, which included a revised South Coast NO<sub>2</sub> attainment plan and a maintenance plan, was found to be complete on April 1, 1997, with respect to portions of the AQMP relating to NO<sub>2</sub>

SIP requirements.<sup>4</sup> The 1997 NO<sub>2</sub> plan supersedes all prior submittals.<sup>5</sup> This submittal was supplemented by documentation providing information to substantiate the redesignation request. The additional documentation was submitted on March 4, 1998, and determined to be complete on May 5, 1998.

This 1997 NO<sub>2</sub> plan provides, among other things, a demonstration of attainment of the NO<sub>2</sub> NAAQS, updated historic and projected emission inventories, amended contingency measures, and corrected air quality modeling analyses using the revised inventories.

## III. EPA Review of the SIP Submittal

### A. Attainment Plan

#### 1. Procedural Requirements

Both the SCAQMD and CARB have satisfied applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption of the plan. The SCAQMD conducted numerous public workshops and public hearings prior to the adoption hearing on November 15, 1996, at which the 1997 AQMP was adopted by the Governing Board of the SCAQMD (Resolution No. 96-23). On January 23, 1997, the Governing Board of CARB adopted the plan (Resolution No. 97-1). The plan was submitted to EPA by Michael P. Kenny, Executive Officer of CARB, on February 5, 1997. The SIP submittal includes proof of publication for notices of SCAQMD and CARB public hearings, as evidence that all hearings were properly noticed.

Supplemental information from the SCAQMD and a formal redesignation request by the State (Executive Order G-125-231) were formally submitted to EPA by Michael P. Kenny on March 4, 1998. The supplemental information was submitted pursuant to the resolutions by the Governing Boards of SCAQMD and CARB in adopting the 1997 AQMP.

<sup>4</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

<sup>5</sup> The initial NO<sub>2</sub> SIP for the South Coast was adopted on April 3, 1992, and submitted on May 15, 1992. EPA did not act on this plan since significant revisions to the emissions inventory and control strategy were already in progress. The plan was revised as part of a 1994 AQMP update, which was adopted on September 9, 1994, and submitted on November 15, 1994. A revision to the 1994 AQMP was adopted on April 12, 1996, and submitted on July 10, 1996. On January 8, 1997, EPA approved the portions of the 1994 AQMP (as revised in 1996) relating to ozone, including the commitments to adopt additional measures to reduce emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>).

Therefore, EPA proposes to approve the NO<sub>2</sub> plan as meeting the procedural requirements of section 110(a)(1) of the CAA.

#### 2. Emissions Inventory

Appendix III of the 1997 AQMP includes planning emission inventories for NO<sub>x</sub> for the historical years 1987, 1990, and 1993. The plan also includes future year inventories through the year 2010, both with and without planned controls. The inventories detail emissions from all stationary and mobile source categories.

EPA emissions inventory guidance allows approval of California's motor vehicle emissions factors in place of the corresponding federal emissions factors.<sup>6</sup> The motor vehicle emissions factors used in the plan were generated by the CARB EMFAC7G and BURDEN7G program. The gridded inventory for motor vehicles was then produced using an updated Caltrans Direct Travel Impact Model (DTIM2) to combine EMFAC7G data with transportation modeling performed by the Southern California Association of Governments (SCAG). SCAG also provided the socioeconomic data used in the plan.

The baseline emissions inventory meets CAA requirements in that it is comprehensive, accurate, and current. EPA approves the emissions inventory portion of the plan as meeting the requirements of section 172(c)(3) of the CAA.

#### 3. Attainment Demonstration

The 1990 CAA Amendments required the South Coast to demonstrate attainment no later than November 15, 1995.<sup>7</sup> The demonstration must show that emissions will be (or have been) reduced to levels at which the NO<sub>2</sub> NAAQS will not be exceeded. This means that the SIP must show that the annual arithmetic mean of NO<sub>2</sub> ambient concentrations will not exceed 0.053 ppm at any location within the nonattainment area.

The peak annual arithmetic mean concentrations for all monitoring stations in the South Coast have been

<sup>6</sup> EPA's general guidance for preparing emission inventories is referenced in Appendix B to the General Preamble (57 FR 18070, April 28, 1992).

<sup>7</sup> The South Coast area was designated nonattainment for NO<sub>2</sub> before the date of enactment of the 1990 amendments, but the area lacked a fully approved SIP for NO<sub>2</sub>. Consequently, the area was subject to the provisions of CAA section 191(b), which required submittal of an attainment plan within 18 months of enactment of the 1990 amendments (or May 15, 1992), and section 192(b), which required attainment within 5 years after the date of enactment of the amendments (or November 15, 1995).

0.0507 ppm in 1992, 0.0499 ppm in 1993, 0.0499 ppm in 1994, 0.0464 ppm in 1995, 0.0461 ppm in 1996, and 0.043 ppm in 1997. Thus, the South Coast has not exceeded the NO<sub>2</sub> NAAQS since 1991 at any of the 24 monitoring locations in the air basin.

The South Coast monitoring network is reviewed annually by CARB and EPA, and has been determined to be generally reflective of air quality throughout the air basin. Periodic CARB and EPA reviews also confirm that the data collected has met applicable Federal standards for quality assurance.

As discussed below in the description of the maintenance plan provisions, the SCAQMD has also performed modeling for key locations in the air basin to show that future NO<sub>2</sub> concentrations will remain below the NAAQS, taking credit for only those controls that were already fully adopted in regulatory form by September 30, 1996. This modeling shows a continuing decline in NO<sub>2</sub> concentrations throughout the air basin.

EPA approves the attainment demonstration portion of the plan as meeting the requirements of sections 192(b) of the CAA, since it demonstrates that the area attained the NAAQS before the applicable deadline of November 15, 1995.

#### 4. Additional Attainment Plan Requirements

Section 172(c)(1) requires that plans provide for the implementation of all reasonably available control measures (RACMs) as expeditiously as practicable, including the adoption of reasonably available control technology (RACT). In numerous prior actions, EPA has approved NO<sub>x</sub> RACT regulations for the SCAQMD. The SCAQMD's extensive NO<sub>x</sub> regulations are generally recognized as among the most stringent and comprehensive in the nation. Therefore, EPA approves the NO<sub>2</sub> plan with respect to the RACM requirement of section 172(c)(1).

Section 172(c)(2) of the CAA requires that nonattainment area plans require reasonable further progress (RFP), which section 171(1) defines as "annual incremental reductions in emissions of the relevant air pollutant as are required \* \* \* for the purpose of ensuring attainment \* \* \* by the applicable date." The emissions inventory data included in the 1997 AQMP and supplement show significant annual declines in NO<sub>x</sub> emissions from 1990 through the present. These reductions, derived from SCAQMD stationary and area source controls and CARB mobile source controls, were sufficient to prevent violations of the NO<sub>2</sub> NAAQS after 1991, several years before the

statutory attainment deadline of 1995. Therefore, EPA approves the plan as meeting the RFP requirements of section 172(c)(2).

CAA sections 172(c)(4) and (5) require that nonattainment plans quantify emissions from major new or modified stationary sources, and include a permit program for these sources that meets the requirements of section 173. The 1997 plan's emissions inventory includes projections of emissions from new sources. EPA has previously approved the South Coast's permit program (Regulation XIII) as meeting the requirements of the CAA and EPA's New Source Review regulations. See 61 FR 64291 (December 4, 1996). Therefore, EPA approves the plan as meeting the new source requirements of sections 172(c)(4) and (5) of the CAA.

CAA section 172(c)(9) requires that nonattainment plans include contingency measures to take effect if the area fails to meet RFP or to attain by the applicable deadline. Since the area attained the NO<sub>2</sub> NAAQS before its deadline, this requirement is no longer germane. In Section III.B., below, EPA addresses the contingency measure requirement for the NO<sub>2</sub> maintenance plan.

#### B. Maintenance Plan and Redesignation

##### 1. Attainment of the NAAQS

The supplemental information submitted on March 4, 1998, includes Attachment A, which presents a table displaying NO<sub>2</sub> annual arithmetic average values for all South Coast monitors for the period 1976 through 1996. This table indicates that the last year with an NO<sub>2</sub> violation was 1991, when the Pomona site had a 0.0550 ppm value, slightly above the 0.053 ppm NAAQS. During the most recent year shown in the submittal (1996), only 5 of 23 stations had values above 0.0400 ppm. The peak value, at the East San Fernando Valley site, was 0.0461 ppm, approximately 15% below the NAAQS. Data for 1997 entered in EPA's Aerometric Information Retrieval System (AIRS) show that air quality has improved further, with a peak concentration of 0.043 ppm for the year, almost 20% below the NAAQS. The docket for this rulemaking includes the SCAQMD data summary and the AIRS data for 1997.

The South Coast more than meets applicable EPA redesignation requirements for NO<sub>2</sub>, since the area has reached and then sustained attainment by having had no exceedances of the NAAQS for 6 complete, consecutive calendar years.

##### 2. Approval of the Applicable Implementation Plan

As set forth in Section III.A. above, this criterion for redesignation is satisfied because the NO<sub>2</sub> plan for the South Coast is fully approved.

##### 3. Improvement in Air Quality Due to Permanent and Enforceable Measures

Redesignation to attainment requires that the improvements in air quality must be shown to have occurred because of enforceable controls, rather than as a result of temporary economic conditions or favorable meteorology. The South Coast NO<sub>x</sub> emissions inventory shows increases in activity levels for most of the significant categories (including motor vehicle use) during the years with no NO<sub>2</sub> violations. This shows that the reductions in NO<sub>x</sub> emissions are not due to an economic recession, but are associated with the impact of permanent and enforceable CARB controls on mobile source emissions and SCAQMD regulations on stationary and area sources. Fleet turnover and progressively more stringent CARB requirements for future year vehicles and engines are expected to sustain this continuing decline in areawide NO<sub>x</sub> emissions, despite projected growth. Therefore, this redesignation criterion is met.

##### 4. Fully Approved Maintenance Plan

Section 175A of the CAA requires States to submit maintenance plans for areas eligible for redesignation to attainment. The maintenance plan must include four elements: an emissions inventory, a demonstration that the NAAQS will be maintained for at least 10 years from the date of redesignation, contingency measures, and a commitment to submit a revised maintenance SIP eight years after the area is redesignated to attainment.

*a. Emissions inventory.* As discussed above, the 1997 plan includes baseline inventory data for 1987, 1990, and 1993, and thus covers the period associated with attaining the NAAQS, as required for maintenance plans.<sup>8</sup>

As discussed above in Section II, the emission inventories meet applicable inventory requirements and EPA also approves the inventory portions of the plan under section 175A.

*b. Demonstration of maintenance.* For the maintenance demonstration, the plan must either demonstrate that the future year inventory will not exceed the inventory that existed at the time of the request for redesignation, or include a modeling analysis showing that the

<sup>8</sup> See, for example, the General Preamble at 57 FR 13563 (April 16, 1992).

future mix of emissions, assuming existing SIP controls, will not cause violations of the NAAQS.

The 1997 NO<sub>2</sub> plan projects baseline emissions to 2010. The table below, labeled "South Coast NO<sub>x</sub> Emissions," shows the decline in NO<sub>x</sub> emissions from 1993 through 2010, assuming no new control measures. Projections are made for Pomona because that area has generally experienced the highest measured annual NO<sub>2</sub> concentrations in the air basin.

**SOUTH COAST NO<sub>x</sub> EMISSIONS IN TONS PER WINTER DAY FOR THE SOUTH COAST AIR BASIN AND THE POMONA AREA**

[1997 AQMP, Appendix V, Table 1-1]

Year	SCAB	Pomona
1993 .....	1284	36.7
2000 .....	960	28.0
2010 .....	759	21.9

The SCAQMD also employed a linear rollback modeling approach, assuming that ambient concentrations are directly proportional to emissions in adjacent areas. The analysis used NO<sub>2</sub>/NO<sub>x</sub> ratios averaged over the period 1992-4 for each site. The results of this modeling analysis show annual average NO<sub>2</sub> concentrations for a 2010 baseline scenario, assuming reductions only from existing regulations. At the peak site (Pomona), the projected concentration is approximately 0.030 ppm, more than 45% below the NAAQS.

*c. Contingency measures.*

Maintenance plans for attainment areas must include contingency provisions, or extra measures beyond those needed for attainment, to offset any unexpected increase in emissions and ensure that the standard is maintained (175(A)(d)). Typically, contingency measures are held in reserve and implemented only if an area violates the standard in the future. However, the California SIP already includes fully adopted regulations which will generate (as shown above) reductions in NO<sub>x</sub> emissions in future years that will provide an ample margin of safety to ensure maintenance of the standard and to provide adequate additional reductions to cover the contingency requirements. These regulations include the California motor vehicle and fuels program, California and Federal requirements for nonroad vehicles and engines, and SCAQMD "declining cap" regulations for stationary sources: Rule 1135—Emissions of Oxides of Nitrogen from Electric Power Generating Systems, and Regulation XX—Regional Clean Air Incentives Market

(RECLAIM). In addition, in acting on the 1994 ozone SIP for the South Coast, EPA has approved and made federally enforceable commitments by SCAQMD and CARB to adopt further stationary and mobile source controls on NO<sub>x</sub> emissions. These controls are scheduled to achieve more than 150 tons per day in reductions of NO<sub>x</sub> emissions in the South Coast by the year 2010.<sup>9</sup> Therefore, EPA approves the contingency measure provisions under section 175A, based on the regulations and enforceable commitments that have already been incorporated into the SIP.

*d. Subsequent maintenance plan revisions.* In accordance with section 175A(b) of the CAA, the State has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years. In California, nonattainment areas must update their plans every 3 years to meet State law requirements, so even more frequent updates to the maintenance plan are expected.

*e. Approval of the maintenance plan and redesignation request.* EPA approves under section 110(k)(3) of the CAA the South Coast NO<sub>2</sub> maintenance plan as meeting the requirements of sections 110 and 175A of the CAA. Since all of the CAA section 107(d)(3)(E) redesignation requirements have been met, EPA grants the request of the State to redesignate the South Coast Air Basin to attainment for the NO<sub>2</sub> NAAQS.

**IV. EPA Final Action**

Under CAA section 110(k)(3), EPA approves the South Coast NO<sub>2</sub> plan portion of the 1997 AQMP as meeting the requirements of CAA sections 110, 172, and 192 with respect to the nonattainment plan requirements, and the requirements of CAA sections 110 and 175A with respect to the maintenance plan requirements. EPA is redesignating the South Coast to attainment for NO<sub>2</sub> under CAA section 107.

EPA is taking these actions without prior proposal because the Agency views this as noncontroversial and anticipates no adverse comments. However, if EPA receives relevant adverse comments by August 24, 1998, then EPA will publish a document that withdraws the rule and informs the public that the rule will not take effect.

<sup>9</sup> See 62 FR 1150-1187 (January 8, 1997), EPA's final approval of the California ozone SIPs, which lists the federally approved CARB and SCAQMD measures, along with both the VOC and NO<sub>x</sub> reductions associated with the measures for each ozone milestone year through 2010 (1999, 2002, 2005, 2008, and 2010).

EPA will then address those comments in a final action based upon the proposed rule, which appears as a separate document in the proposed rules section of this **Federal Register** publication. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 22, 1998, and no further action will be taken on the proposed rule.

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

**V. Administrative Requirements**

*A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

*B. Regulatory Flexibility Act*

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 business, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and subchapter I, part D of the CAA, 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, the Administrator certifies 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 CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIP's 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. 7410(a)(2).

*C. Unfunded Mandates*

Under sections 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 costs to State, local, or tribal governments in the aggregate; or to the 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 also 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. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

*D. Submission to Congress and the General Accounting Office*

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).

*E. 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 September 22, 1998. 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).)

*F. Executive Order 13045*

The final rule is not subject to E.O. 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks, because it is not an "economically significant" action under E.O. 12866.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Nitrogen dioxide, Incorporation by reference, Intergovernmental relations, Oxides of Nitrogen, Reporting and recordkeeping requirements.

**Note:** Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: July 8, 1998.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

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 F—California**

2. Section 52.220 is amended by adding paragraph (c)(247)(i)(A)(2) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (247) \* \* \*
- (i) \* \* \*
- (A) \* \* \*

(2) Nitrogen dioxide attainment plan and maintenance plan, as contained in the South Coast 1997 Air Quality Management Plan, adopted on November 15, 1996.

\* \* \* \* \*

**PART 81—[AMENDED]**

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.305, the table for California—NO<sub>2</sub> is amended by revising the entry for "South Coast Air Basin" to read as follows:

**§ 81.305 California.**

\* \* \* \* \*

CALIFORNIA—NO<sub>2</sub>

Designated Area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *	*	*
South Coast Air Basin .....	*	X
* * * * *	*	*

\* \* \* \* \*

[FR Doc. 98-19838 Filed 7-23-98; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL EMERGENCY  
MANAGEMENT AGENCY****44 CFR Part 64**

[Docket No. FEMA-7692]

**Suspension of Community Eligibility****AGENCY:** Federal Emergency  
Management Agency, FEMA.**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

**EFFECTIVE DATES:** The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646-3619.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in

this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

**National Environmental Policy Act**

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No

environmental impact assessment has been prepared.

**Regulatory Flexibility Act**

The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

**Regulatory Classification**

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Paperwork Reduction Act**

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**Executive Order 12612, Federalism**

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

**Executive Order 12778, Civil Justice Reform**

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

1. The authority citation for part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 64.6 [Amended]**

2. The tables published under the authority of § 64.6 are amended as follows: