

for restricted reporting. Reports will be completed utilizing the offense code from the 6Z series. An entry will be made in the journal when the evidence kit or property (clothing, bedding, etc.) is received. The journal entry will be listed using non-identifying information, such as an anonymous identifier. An entry will not be made in the blotter. Restricted reporting incidents are not reportable as Serious Incident Reports. Property and the evidence kit will be stored for one year and then scheduled/suspended for destruction, unless earlier released to investigative authorities in accordance with the victim's decision to pursue unrestricted reporting. Thirty days prior to destruction of the property, a letter will be sent to the SARC by the Provost Marshal, advising the SARC that the property will be destroyed in thirty days, unless law enforcement personnel are notified by the SARC that the victim has elected unrestricted reporting. Clothing, the evidence kit, or other personal effects may be released to the SARC for return to the victim. The information report will be updated when the evidence is destroyed, or released to investigative authorities.

(d) In the event that information about a sexual assault that was made under restricted reporting is disclosed to the commander from a source independent of the restricted reporting avenues or to law enforcement from other sources, but from a source other than the SARC, HCP, chaplain, or Provost Marshal, the commander may report the matter to law enforcement and law enforcement remains authorized to initiate its own independent investigation of the matter presented. Additionally, a victim's disclosure of his/her sexual assault to persons outside the protective sphere of the persons covered by the restricted reporting policy may result in an investigation of the allegations.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket No. EPA-R02-OAR-2005-NY-0001; FRL-8169-9]

Air Quality Redesignation for the 8-Hour Ozone National Ambient Air Quality Standards; New York State

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is redesignating the Syracuse metropolitan area from unclassifiable to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS). The counties comprising this area are Onondaga, Madison, Cayuga and Oswego in the State of New York. This redesignation to attainment is appropriate because the State of New York requested redesignation and the Syracuse area has attained the ozone health standard based on the most recent data available.

DATES: *Effective Date:* This rule will become effective on June 14, 2006.

FOR FURTHER INFORMATION CONTACT: Robert Kelly at 212-637-4249 or by e-mail at kelly.bob@epa.gov.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R02-OAR-2005-NY-0001. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be 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 Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866.

EPA requests that if at all possible, you contact the contact 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.

In addition, copies of the state submittals are available at the following addresses for inspection during normal business hours:

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd Floor, Albany, New York 12233.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket, Room B-108, 1301 Constitution Avenue, (Mail Code 6102T) NW., Washington DC 20460.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

- I. What Action Is EPA Taking?
- II. What Is the Background for This Action?

- III. What Are the Statutory and Regulatory Requirements for Designations and Redesignations?
- IV. What Is EPA's Response to Comments on the Redesignation?
- V. What Air Quality Information Shows That the Syracuse Area Attains the Ozone Standard?
- VI. Conclusion
- VII. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

Consistent with the applicable requirements in section 107(d)(3) of the Clean Air Act and the regulatory requirements in 40 CFR part 50, appendix I and based on the 8-hour ozone air quality data for the 2003 through 2005 time period, we are redesignating the Syracuse area, which is comprised of Onondaga, Madison, Cayuga, and Oswego Counties in New York from unclassifiable to attainment for the 8-hour ozone standard. The basis for this action is described in more detail below and in the July 7, 2005 proposed rule referenced below.

II. What Is the Background for This Action?

The EPA published a final rule (69 FR 23858; April 30, 2004) promulgating designations for the 8-hour ozone NAAQS. That action designated the four-county Syracuse metropolitan area as unclassifiable and provided that the designation was effective on June 15, 2004.

Our initial designation of the Syracuse area was based on a review of ozone data from 2001 through 2003. In that action, we stated that we would review all available information and make an attainment or nonattainment decision after reviewing the 2004 ozone data.

On December 14, 2004, the New York State Department of Environmental Conservation asked EPA to complete its planned review of 2004's air quality data and requested EPA to redesignate the Syracuse area to attainment of the 8-hour ozone standard. On July 7, 2005, after reviewing the air quality data for the 3-year period ending 2004, we published a proposal (70 FR 39215) to redesignate the Syracuse area from unclassifiable to attainment. We received two comments on the redesignation, which are addressed in the section "What is EPA's Response to Comments on the Redesignation?"

III. What Are the Statutory Requirements for Designations and Redesignations?

Section 107(d) of the Clean Air Act sets forth the criteria and process for designations and redesignations. An explanation of statutory requirements

for the 8-hour ozone designations that became effective on June 15, 2004, and the actions EPA took to meet those requirements, can be found in the final rule that established the designations (69 FR 23858; April 30, 2004). In section 107(d)(3), the Clean Air Act addresses redesignations and provides that the Administrator or the Governor of a state may initiate the redesignation process. One of the bases for redesignation under that section is air quality data. To determine whether an area is attaining the 8-hour ozone NAAQS, we consider the most recent 3 consecutive years of data in accordance with 40 CFR part 50, appendix I, EPA's Guideline on Data Handling Conventions for the 8-Hour Ozone NAAQS (December 1998). For the purpose of this final rulemaking, we reviewed the ozone data from 2002 through 2004 and have examined the data for 2005 as well.

IV. What Is EPA's Response to Comments on the Redesignation?

EPA received two letters commenting on the proposed redesignation. One letter, from the American Lung Association of New York State, urged EPA to designate the Syracuse area as nonattainment for the 8-hour ozone standard, disagreeing with EPA's original designation of unclassifiable for the area. The American Lung Association also disagreed with EPA's method for determining the attainment status of the area, and asked EPA to wait and use data from 2005 before moving ahead with any redesignation to attainment.

The original designation of unclassifiable, was made by EPA on April 30, 2004 at 69 FR 23858. Any concerns regarding that action should have been raised in the context of that rulemaking action and/or in a challenge to that final action. EPA has not reopened the issue of the area's initial designation in this ruling.

As for the American Lung Association's request that EPA use data from the 2005 ozone season, EPA notes New York State requested redesignation based on data from the 2002–2004 ozone seasons and that information formed the basis for our proposed approval of the redesignation request. However, we have examined the air quality data from 2005 and data from the 3-year period of 2003–2005 also indicate that the area is in attainment with the 8-hour ozone standard. Therefore, based on data from 2002 through 2004 and 2003 through 2005, using the method established by EPA for evaluating the attainment status of ozone monitors, all of the ozone

monitors in the Syracuse area are attaining the ozone standard.

The other letter, from the Onondaga County Executive, supported EPA's proposed redesignation of the Syracuse area to attainment.

V. What Air Quality Information Shows That the Syracuse Area Attains the Ozone Standard?

As we proposed in July 2005, the air quality data submitted by New York in support of redesignation indicates that the Syracuse area was attaining the 8-hour ozone standard based on the three most recent years of data—2002–2004. More recent information continues to support redesignation to attainment of the Syracuse area. On January 25, 2006, the New York State Department of Environmental Conservation certified the air quality data for 2005 is complete, accurate and meeting EPA's quality assurance requirements. Based on our independent review of these data, which the State submitted to EPA's database, we agree with the State's assessment.

Consistent with 40 CFR part 50, appendix I, section 2.3, paragraph (d)(1), the 8-hour ozone standard is met if the design value is less than 0.085 parts per million (ppm). In Appendix I, the design value is defined as the average value of the annual fourth highest daily maximum that occurred over the most recent three year period. The design value for the monitors in the Syracuse area for the three year period 2002–2004 are: East Syracuse 0.079 ppm, Georgetown 0.077 ppm. In addition the design value for the most recent three years of data, 2003 to 2005 are: East Syracuse 0.074 ppm, Georgetown 0.073 ppm and Fulton 0.082 ppm. Note the Fulton monitor is new and did not have the three years of data required by EPA's guidance for air quality designations. Also, a monitor outside the Syracuse metropolitan area in Oneida County, which was set up as the downwind peak ozone monitor for the Syracuse area, had design values of 0.078 ppm for the three year period 2002–2004 and 0.072 ppm for the three year period 2003–2005. These monitored design values are less than the 0.085 ppm ozone standard set by EPA. Since the monitors are attaining the ozone standard using the most recent data, the eight-hour ozone NAAQS has been attained in the Syracuse area and we are redesignating the area to attainment.

VI. Conclusion

Because the Syracuse area has met all the requirements for redesignation to attainment, including meeting the 8-hour ozone health standard based on the

latest data, we are redesignating the area, comprised of Onondaga, Madison, Cayuga, and Oswego Counties in New York, to attainment for the 8-hour ozone standard.

VII. 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 designates an area for planning purposes based on air quality, and does not establish any new regulations. 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.*). The redesignation is an action which affects the status of a geographic area but does not impose any new requirements on governmental entities or sources. Therefore because it does not impose any additional enforceable duty, 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).

The Onondaga and Oneida Tribes are located within the Syracuse area. The redesignation of the Syracuse area from unclassifiable to attainment will not create any new or burdensome requirements upon the tribes. Therefore, this redesignation 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 establishes the attainment status, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 state redesignation requests, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 redesignation request for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state recommendation, to use VCS in place of a state request that otherwise satisfies the provisions of the CAA. 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. 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 July 14, 2006. 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 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: April 28, 2006.

Alan J. Steinberg,
Regional Administrator, Region 2.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

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 § 81.333, the table entitled "New York-Ozone (8-Hour Standard)" is amended by removing footnote \b and revising the entry for Syracuse to read as follows:

§ 81.333 New York.

* * * * *

NEW YORK-OZONE (8-HOUR STANDARD)

| Designation area | Designation ^a | | Category/classification | |
|-----------------------|--------------------------|-------------|-------------------------|-------|
| | Date ¹ | Type | Date ¹ | Type |
| * * * | * * * | * * * | * * * | * * * |
| Syracuse, NY: | | | | |
| Cayuga County | June 14, 2006 | Attainment. | | |
| Madison County | June 14, 2006 | Attainment. | | |
| Onondaga County | June 14, 2006 | Attainment. | | |
| Oswego County | June 14, 2006 | Attainment. | | |
| * * * | * * * | * * * | * * * | * * * |

^a Includes Indian Country located in each county or area, except as otherwise specified.
¹ This date is June 15, 2004, unless otherwise noted.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2006-23651]

RIN 2127-AJ81

Federal Motor Vehicle Safety Standards; Controls, Telltales and Indicators

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: In a final rule of August 17, 2005, we updated our standard regulating motor vehicle controls, telltales and indicators. The standard specifies requirements for the location, identification, and illumination of these items. The rule extended the standard's telltale and indicator requirements to vehicles with a Gross Vehicle Weight Rating (GVWR) of 4,536 kg (10,000 pounds) and greater, updated the standard's requirements for multi-function controls and multi-task displays to make the requirements appropriate for advanced systems, and reorganized the standard to make it easier to read. In a document published

on January 24, 2006, the effective date and compliance date for requirements applicable to vehicles under 4,536 kg (10,000 pounds) GVWR were extended to September 1, 2006.

In response to the August 17, 2005 final rule, we received four petitions for reconsideration, from three organizations. This final rule responds to those petitions.

DATES: *Effective Date:* The effective date of the rule amending 49 CFR 571.101 published at 70 FR 48295, August 17, 2005 was delayed until September 1, 2006 (at 71 FR 3786, January 24, 2006). The effective date of today's final rule is September 1, 2006.

Compliance date: The compliance date for the extension of the standard's telltale and indicator requirements to