

Carbon Monoxide nonattainment area. This included an attainment demonstration and the control measures needed to attain the National Ambient Air Quality Standard for carbon monoxide. The January 15, 2002, request to redesignate the New Jersey portion of the New York—Northern New Jersey—Long Island Carbon Monoxide nonattainment area from nonattainment to attainment of the National Ambient Air Quality Standard for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan which demonstrated continued attainment of

the National Ambient Air Quality Standard for carbon monoxide through the year 2014.

3. Section 52.1582 is amended by revising the section heading and removing and reserving paragraph (d)(2) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone.

* * * * *

PART 81—[AMENDED]

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

NEW JERSEY-CARBON MONOXIDE

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Section 107 Attainment Status Designations

2. In § 81.331, the table for “New Jersey-Carbon Monoxide” is amended by revising the entry for “New York—N. New Jersey—Long Island Area” to read as follows:

§ 81.331 New Jersey.

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Designated Area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * *	* * *	* * *	* * *	* * *
New York-N. New Jersey-Long Island Area:				
Bergen	October 22, 2002	Attainment.		
Essex Countydo	Attainment.		
Hudson Countydo	Attainment.		
Passaic County (part)				
City of Cliftondo	Attainment.		
City of Patersondo	Attainment.		
City of Passaicdo	Attainment.		
Union Countydo	Attainment.		
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¹ This date is November 15, 1990, unless otherwise noted.

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[FR Doc. 02–21283 Filed 8–22–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–082–FOAa; FRL–7263–9]

Determination of Attainment of the 1-Hour Ozone Standard for San Diego County, CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This rulemaking contains EPA’s final determination that the San Diego area has attained the 1-hour ozone air quality standard by the deadline required by the Clean Air Act. If adverse written comments are received, we will withdraw the direct final rule and address the comments received in a new final rule; otherwise no further rulemaking will occur on this action. Elsewhere in this issue of the **Federal**

Register, we are proposing to make this finding of attainment.

DATES: This direct final finding is effective October 22, 2002, without further notice, unless we receive adverse comments by September 23, 2002. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Please address your comments to: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the State’s submittal are available for public inspection during normal business hours at EPA’s Region 9 office and at the following locations:

California Air Resources Board, 1001 I Street, Sacramento, CA 95814.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

FOR FURTHER INFORMATION CONTACT:

Dave Jesson, US EPA Region 9, at (415) 972–3957, or jesson.david@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Attainment Finding

A. San Diego’s Ozone Classification and Current Status

When the Clean Air Act (CAA) Amendments were enacted in 1990, each area of the country that was designated nonattainment for the 1-hour ozone national ambient air quality standard (NAAQS), including the San Diego area, was classified by operation of law as marginal, moderate, serious, severe, or extreme depending on the severity of the area’s air quality problem.¹ CAA sections 107(d)(1)(C) and 181(a). The San Diego area was initially classified as severe. See 40 CFR 81.305 and 56 FR 56694 (November 6, 1991). The area was reclassified as serious after we determined that the ozone design value used in the original classification was incorrect. 60 FR 3771 (January 19, 1995).

¹ The 1-hour ozone nonattainment area is the “San Diego Area,” which comprises the entire County of San Diego. See 40 CFR 81.305.

Upon the San Diego area's reclassification as serious, the CAA required submittal of a state implementation plan (SIP) demonstrating attainment of the 1-hour ozone standard as expeditiously as practicable but no later than November 15, 1999. CAA sections 181(a)(1) and 182(c)(2)(A). The SIP had to meet several other CAA requirements for serious areas. See generally CAA section 182(c). The San Diego County Air Pollution Control District (SDCAPCD) adopted a serious area plan addressing these provisions, and we approved the SIP submittal on January 8, 1997 (62 FR 1150).

Although the San Diego area did not attain the standard by the November 15, 1999 deadline, the area did qualify to have that deadline extended, since the area had complied with all requirements and commitments in the SIP and recorded no more than 1 exceedance of the NAAQS in 1999. For areas meeting these provisions, CAA section 181(a)(5) allows us to grant up to two 1-year extensions. On October 11, 2000 (65 FR 65025), we granted the San Diego area a 1-year attainment date extension to November 15, 2000, and on August 6, 2001 (66 FR 40908), we granted the area a second 1-year extension to November 15, 2001, since the area again had no more than 1 exceedance in the previous year.

On March 28, 2002, Richard J. Smith, Acting Director, SDCAPCD, addressed a letter to Michael P. Kenny, Executive Officer of the California Air Resources Board (CARB), asking that the State petition us to make an attainment finding because quality-assured ambient ozone data show no more than one exceedance at any monitoring station in the San Diego area for the 1999–2001 period. On June 21, 2002, CARB formally requested that we make a finding of attainment for the San Diego area based on the area's design value as of the 2001 attainment date (letter from Michael P. Kenny to Wayne Nastri, Regional Administrator, EPA Region 9).

B. Clean Air Act Provisions for Attainment Findings

Under CAA section 181(b)(2)(A), we must determine within six months of the applicable attainment date whether an ozone nonattainment area has attained the standard. If we find that a serious area has not attained the standard and does not qualify for an extension, it is reclassified by operation

of law to severe. Under CAA section 181(b)(2)(A), we must base our determination of attainment or failure to attain on the area's design value as of its applicable attainment date, which for the San Diego area was November 15, 2001.

The 1-hour ozone NAAQS is 0.12 ppm, not to be exceeded on average more than 1 day per year over any 3-year period. 40 CFR 50.9 and appendix H. Under our policies, we determine if an area has attained the 1-hour standard by calculating, at each monitor, the average number of days over the standard per year during the preceding 3-year period.² For this direct final rulemaking, we have based our determination of attainment on both the design value and the average number of exceedance days per year as of November 15, 2001.

The design value is an ambient ozone concentration that indicates the severity of the ozone problem in an area and is used to determine the level of emission reductions needed to attain the standard, that is, it is the ozone level around which a State designs its control strategy for attaining the ozone standard. A monitor's design value is the fourth highest ambient concentration recorded at that monitor over the previous 3 years. An area's design value is the highest of the design values from the area's monitors.³

We make attainment determinations for ozone nonattainment areas using all available, quality-assured air quality data for the 3-year period up to and including the attainment date.⁴

² See generally 57 FR 13506 (April 16, 1992) and Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, EPA, to Regional Air Office Directors; "Procedures for Processing Bump Ups and Extensions for Marginal Ozone Nonattainment Areas," February 3, 1994. While explicitly applicable only to marginal areas, the general procedures for evaluating attainment in this memorandum apply regardless of the initial classification of an area because all findings of attainment are made pursuant to the same Clean Air Act requirements in section 181(b)(2).

³ The fourth highest value is used as the design value because a monitor may record up to 3 exceedances of the standard in a 3-year period and still show attainment, since 3 exceedances over 3 years would average 1 day per year, the maximum allowed to show attainment of the 1-hour ozone standard. If the monitor records a fourth exceedance in that period, it would average more than 1 exceedance day per year and would no longer show attainment. Therefore, if a State can reduce the fourth highest ozone value to below the standard, thus preventing a fourth exceedance, then it will be able to demonstrate attainment.

⁴ All quality-assured available data include all data available from the state and local/national air

Consequently, we used all of the 1999, 2000, and 2001 quality-assured data available to determine whether the San Diego area attained the 1-hour ozone standard by November 15, 2001. From the available air quality data, we have calculated the average number of days over the standard and the design value for each ozone monitor in the San Diego nonattainment area.

C. Attainment Finding for the San Diego Area

1. Adequacy of the San Diego Area Ozone Monitoring Network

Determining whether or not an area has attained the 1-hour ozone standard under CAA section 181(b)(1)(A) is based on monitored air quality data. Thus, the validity of a determination of attainment depends on whether the monitoring network adequately measures ambient ozone levels in the area.

We evaluate 4 basic elements in determining the adequacy of an area's ozone monitoring network. The network needs to meet the design requirements of 40 CFR part 58, appendix D; the network needs to utilize monitoring equipment designated as reference or equivalent methods under 40 CFR part 53; and the agency or agencies operating the equipment need to have a quality assurance plan in place that meets the requirements of 40 CFR part 58, appendix A. The ozone network in the San Diego area meets or exceeds these requirements and is therefore adequate for use in determining the ozone attainment status of the area.

2. The San Diego Area's Ozone Design Value for the 1999–2001 Period

We have listed in Table 1 the design values and the average number of exceedance days per year for the 1999 to 2001 period for each monitoring site in the San Diego area. We calculated the design values following the procedures in the Laxton memo.⁵

monitoring (SLAMS/NAMS) network as submitted to EPA's AIRS system and all data available to EPA from special purpose monitoring (SPM) sites that meet the requirements of 40 CFR 58.13. See Memorandum John Seitz, Director, OAQPS, to Regional Air Directors; "Agency Policy on the Use of Ozone Special Purpose Monitoring Data," August 22, 1997.

⁵ See memorandum, William G. Laxton, Director, Technical Support Division, Office of Air Quality Planning and Standards to Regional Air Directors, "Ozone and Carbon Monoxide Design Value Calculations," June 18, 1990.

TABLE 1.—AVERAGE NUMBER OF OZONE EXCEEDANCE DAYS PER YEAR AND DESIGN VALUES BY MONITOR IN SAN DIEGO COUNTY, 1999–2001

Site	Average number of exceedance days per year	Site design value (ppm)
Chula Vista (SLAMS)	0	0.10
El Cajon (PAMS/NAMS)	0	0.10
Oceanside (SLAMS)	0	0.09
San Diego/Overland (PAMS/NAMS)	0.3	0.11
Del Mar (SLAMS)	0	0.09
Escondido (SLAMS)	0.3	0.11
Alpine (PAMS/SLAMS)	0.3	0.12
San Diego/12th Street (SLAMS)	0	0.09
Camp Pendleton (PAMS/SLAMS)	0	0.10
Otay Mesa (SLAMS)	0	0.09

Note: EPA's monitoring network regulations are codified at 40 CFR 58. The regulations provide for National Air Monitoring Stations (NAMS), State or Local Air Monitoring Stations (SLAMS), and Photochemical Assessment Monitoring Stations (PAMS). All of the stations in the San Diego County monitoring network are operated by SDCAPCD or CARB. The monitoring data are submitted to EPA's Aerometric Information Retrieval System-Air Quality Subsystem (AIRS-AQS) database.

From Table 1, the highest design value at any monitor, and thus the design value for the San Diego area, is .12 ppm at the Alpine site. No monitor in the San Diego area recorded an average of more than 1 exceedance of the 1-hour ozone standard per year during the 1999 to 2001 period.

Because the area's design value does not exceed the 0.12 ppm 1-hour ozone standard and the area has averaged less than 1 exceedance per year at each monitor for the 1999 to 2001 period, we find that the San Diego area has attained the 1-hour ozone standard by its Clean Air Act mandated attainment date of November 15, 2001.

D. Attainment Findings and Redesignations to Attainment

A finding that an area has attained the 1-hour ozone standard under CAA section 181(b)(1)(A) does not redesignate the area to attainment for the 1-hour standard nor does it guarantee a future redesignation to attainment.

The redesignation of an area to attainment under CAA section 107(d)(3)(E) is a separate process from a finding of attainment under CAA section 181(b)(1)(A). Unlike an attainment finding where we need only determine that the area has had the prerequisite number of clean years, a redesignation to attainment requires additional submittals and multiple determinations. Under CAA section 107(d)(3)(E), we must make the following determinations:

1. The area has attained the relevant NAAQS at the time of redesignation.
2. The State has a fully approved SIP for the area.
3. The improvements in air quality are due to permanent and enforceable reductions in emissions resulting from

implementation of the SIP and applicable federal regulations and other permanent and enforceable reductions.

4. We have fully approved a maintenance plan for the area under CAA section 175A.

5. The State has met all the nonattainment area requirements applicable to the area.

To address the provisions of CAA section 175A, SDCAPCD is preparing an ozone redesignation request and maintenance plan, which is scheduled for adoption later this year. It is possible, although not expected, that the San Diego area might violate the 1-hour ozone NAAQS before the maintenance plan is approved and the area is redesignated to attainment. If such a violation were to occur after EPA's finding of attainment under CAA section 181(b)(2)(A) in this rulemaking, EPA believes that issuance of a SIP call under CAA section 110(k)(5) would be an appropriate response. This SIP call could require the State to submit, by a reasonable deadline but not to exceed 18 months, a revised plan demonstrating expeditious attainment and compliance with other requirements of subpart 2 applicable to the area at the time of this finding.

II. Final Action

We are finding that the San Diego area has attained the 1-hour ozone NAAQS under CAA section 181(b)(2)(A).

We are publishing this action without prior proposal because we view this as a noncontroversial finding and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposed finding of attainment if relevant adverse comments are filed. This rule will be effective

October 22, 2002 without further notice unless relevant adverse comments are received by September 23, 2002. If we receive such comments, this action will be withdrawn before the effective date. All public comments received will then be addressed in a subsequent final rule based on the proposed action. We will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective October 22, 2002.

III. Administrative Requirements

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 determines that the San Diego area has attained a previously-established national ambient air quality standard based on an objective review of measured air quality data. As such, the action 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 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 (Public Law 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 makes a determination based on air quality data, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This action 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.

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use voluntary consensus standards (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. EPA believes that VCS are inapplicable to today's final action because the action does not require the public to perform activities conducive to the use of VCS. 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.*).

List of Subjects in 40 CFR Part 81

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

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

Dated: August 8, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.
[FR Doc. 02-21560 Filed 8-22-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0183; FRL-7194-4]

Triflumizole; Pesticide Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of triflumizole (1-(1-((4-chloro-2-(trifluoromethyl) phenyl)imino)-2-propoxyethyl)-1H-imidazole) and its metabolites containing the 4-chloro-2-trifluoromethylaniline moiety, calculated as the parent in or on hazelnuts, or filberts (EPA preferred term). This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on filberts. This regulation establishes a maximum permissible level for residues of triflumizole in this food commodity. The tolerance will expire and is revoked on June 30, 2004.

DATES: This regulation is effective August 23, 2002. Objections and requests for hearings, identified by docket ID number OPP-2002-0183, must be received on or before October 22, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP-2002-0183 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9356; e-mail address: conrath.andrea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP-2002-0183. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public