

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order, because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From August 7, 2006 through 7 p.m. on October 29, 2006, § 117.287(d)(3) is

suspended and (d)(5) is added to read as follows:

* * * * *

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(d) * * *

(5) Pinellas Bayway Structure “E” (SR 679) bridge, mile 113 at St. Petersburg Beach. The draw shall open on signal, except that from 9 a.m. to 7 p.m. the draw need open only on the hour and 30 minutes past the hour.

* * * * *

Dated: July 17, 2006.

D.W. Kunkel,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. E6–12528 Filed 8–4–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2006–0322; FRL–8190–2]

Approval and Promulgation of Implementation Plans; Las Vegas Valley Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revised attainment plan, as modified to withdraw the motor vehicle emissions budget for 2030, for the Las Vegas Valley carbon monoxide nonattainment area as a revision to the Nevada state implementation plan. The revised attainment plan, as modified, includes revised base year and future year emissions inventories and a revised demonstration of continued attainment of the carbon monoxide national ambient air quality standard in Las Vegas Valley through 2020 based on the most recent emissions models and planning assumptions and establishes new motor vehicle emissions budgets. EPA is acting under section 110(k) of the Clean Air Act, which obligates the Agency to take action on State submittals of revisions to state implementation plans. The intended effect of this approval action is to update the carbon monoxide motor vehicle emissions budgets in the Las Vegas area and thereby make them available for the purposes of transportation conformity.

DATES: This rule is effective on September 6, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2006-0322. 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, e.g., CBI or other information whose disclosure is restricted by statute. Certain other information, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, EPA Region IX, telephone number: (775) 833-1276; fax number: (775) 833-1276; e-mail address: okonnor.karina@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to EPA.

Table of Contents

- I. What Action Did EPA Propose?
- II. Is the Background for This Rule?
- III. What Comments Did We Receive on the Proposed Action?
- IV. What Is Our Final Action?
- V. Statutory and Executive Order Reviews

I. What Action Did EPA Propose?

On May 9, 2006 (71 FR 26910), under section 110(k) of the Clean Air Act (CAA or “Act”), we proposed to approve the *Carbon Monoxide State Implementation Plan Revision, Las Vegas Valley Nonattainment Area, Clark County, Nevada* (October 2005), which was adopted by the Clark County Board of Commissioners on October 4, 2005 and submitted to EPA by NDEP on February 14, 2006, as a revision to the Nevada SIP on the condition that Clark County and the State of Nevada withdraw the 2030 motor vehicle emission budget, or, in the alternative, we propose to disapprove the plan. Specifically, we proposed to approve the plan’s revised base year and projected emission inventories and modeling demonstration of continued attainment of the CO standard through 2020. Our proposed disapproval was based on our finding that the plan does not demonstrate continued attainment in year 2030 because it lacks micro-scale modeling analysis for the environs of the County’s airports in that year.

Furthermore, we found that, with the exception of the 2030 budget, the new motor vehicle emissions budgets

established in the plan are also consistent with continued attainment of the CO NAAQS in Las Vegas Valley. Thus, we proposed to approve the motor vehicle emissions budgets from the 2005 CO plan for 2006, 2010, 2015, and 2020 as meeting the purposes of section 176(c)(1) and the transportation conformity rule at 40 CFR 93, subpart A contingent upon the withdrawal of the 2030 budget by Clark County and the State of Nevada, and to disapprove the submitted budgets in the 2005 CO plan, in the alternative, if no such withdrawal was made.

As discussed below, the State of Nevada has submitted a second SIP revision that withdraws the 2030 budget, and we received no comments on our proposal, and thus, we are taking final action to approve the 2005 CO plan, as amended, and to approve the related motor vehicle emissions budgets for 2006, 2010, 2015, and 2020.

II. What Is the Background for This Rule?

Based on monitoring data from the mid-1970’s, EPA designated Las Vegas Valley¹ as a carbon monoxide (CO) nonattainment area under the Clean Air Act (CAA or “Act”), as amended in 1977. See 43 FR 8962, 9012 (March 3, 1978). In response, Clark County and the State of Nevada adopted and implemented various air quality plans and programs, including a vehicle inspection and maintenance (I/M) program, to reduce CO levels in Las Vegas Valley, but the CO national ambient air quality standards (NAAQS) were not attained by the then-applicable 1987 attainment date. [EPA approved these plans and programs at various times as revisions to the Nevada state implementation plan (SIP).]

The CAA was significantly amended by Congress in 1990 to establish new attainment dates and planning and control requirements for areas that had failed to attain the NAAQS under the 1977 Amendments. Under the 1990 Amended Act, Las Vegas Valley was initially classified as a “moderate” nonattainment area for CO but was later reclassified as a “serious” CO nonattainment area after having missed the attainment date for moderate areas.

In response to the “moderate”, and then “serious,” nonattainment classification and related CAA requirements, Clark County and the State of Nevada adopted and implemented new air quality plans and

programs, including a “serious” area attainment plan, the *Carbon Monoxide State Implementation Plan, Las Vegas Valley Nonattainment Area, Clark County, Nevada* (August 2000) (“2000 CO plan”). In 2004, we approved the 2000 CO plan and related motor vehicle emissions budgets for years 2000, 2010 and 2020. See 69 FR 56351, September 21, 2004.

In response to changes in the EPA-approved motor vehicle emission factor model and higher-than-forecast increases in population growth in Las Vegas Valley, the Clark County Department of Air Quality and Environmental Management (DAQEM), in consultation with the Regional Transportation Commission of Southern Nevada (RTC), undertook a comprehensive air quality planning effort to review and update the 2000 CO plan and the associated motor vehicle emission budgets to maintain consistency for future transportation conformity findings. The planning efforts culminated in the preparation of the *Carbon Monoxide State Implementation Plan Revision, Las Vegas Valley Nonattainment Area, Clark County, Nevada* (October 2005) (“2005 CO plan”). The Clark County Board of Commissioners adopted the 2005 CO plan on October 4, 2005, and the Nevada Division of Environmental Protection (NDEP) submitted the plan to EPA as a revision to the Nevada SIP on February 14, 2006.

The 2005 CO plan, as adopted on October 4, 2005 and submitted on February 14, 2006, includes revised base year and future year emissions inventories and a revised demonstration of continued attainment of the CO NAAQS in Las Vegas Valley through 2030 based on the most recent emissions models and planning assumptions and establishes new motor vehicle emissions budgets. The inventories and modeling demonstration included in the 2005 CO plan relate to analysis years 1996, 2006, 2010, 2015, 2020 and 2030. The plan allocates almost all of the estimated safety margins² in years 2006, 2010, 2015, 2020, and 2030 to the on-road motor vehicle emissions category. Based on our review and evaluation of NDEP’s February 14, 2006 SIP revision submittal, we proposed to approve the 2005 CO plan on the condition that

² The term “safety margin” refers to the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment or maintenance. See 40 CFR 93.101. The 2005 CO plan also allocates a small portion of the safety margins to certain point sources.

¹ The boundaries of the Las Vegas Valley CO nonattainment area are defined by reference to State hydrographic area #212, which covers the central portion of Clark County. See 40 CFR 81.329.

Clark County and the State of Nevada withdraw the 2030 motor vehicle emission budget, or, in the alternative, to disapprove the plan. See 71 FR 26910 (May 9, 2006).

As stated in our proposed rule published on May 9, 2006, our objection to the 2030 budget was premised on our finding that the plan lacks micro-scale modeling analysis for the environs of the County's airports in that year. In response, on May 2, 2006, Clark County adopted a revision to the 2005 CO plan that involved withdrawal of the 2030 budget and revision and replacement of the specific section of the plan (section 7.3, page 7–2, "Mobile Source Emissions Budget") that identifies the emissions budgets. On May 12, 2006, NDEP submitted the amended page of the plan to EPA as a SIP revision together with evidence of adoption of this amendment by the Clark County Board of Commissioners. We have reviewed the May 12, 2006 submittal, and find that it meets the condition we placed on the proposed approval of the 2005 CO plan, and thus we are taking final action today to approve the plan, as amended.

Please see the proposed rule at 71 FR 26910 (May 9, 2006) for more information about the background leading up to the submittal of the 2005 CO plan and our review and evaluation of the plan.

III. What Comments Did We Receive on the Proposed Action?

EPA provided a 30-day review and comment period on the proposal published in the **Federal Register** on May 9, 2006 (71 FR 26910). We received no comments on our proposed rulemaking.

IV. What Is Our Final Action?

Pursuant to section 110(k) of the Act and for the reasons set forth above and in the proposed rule, we are approving the *Carbon Monoxide State Implementation Plan Revision, Las Vegas Valley Nonattainment Area, Clark County, Nevada* (October 2005), as adopted on October 4, 2005 by the Clark County Board of Commissioners and submitted by NDEP on February 14, 2006, and as amended by the board on May 2, 2006 and submitted by NDEP on May 12, 2006, as a revision to the Nevada SIP.

Our approval is based on our evaluation of the plan submittals and determination that the plan's revised base year and projected emission inventories and modeling demonstration of continued attainment of the CO standard through 2020 reflect

acceptable methods and the most recent models and planning assumptions.

Furthermore, we find that the new motor vehicle emissions budgets established in the plan and reflecting scaled inventories are also consistent with continued attainment of the CO NAAQS in Las Vegas Valley. Thus, we are approving the following motor vehicle emissions budgets from the 2005 CO plan, as modified by the withdrawal of the 2030 budget as set forth in NDEP's February 12, 2006 submittal, as meeting the purposes of section 176(c)(1) and the transportation conformity rule at 40 CFR part 93, subpart A:

**CO MOTOR VEHICLE EMISSIONS
BUDGET**
[December weekday]

Year	Tons per day
2006	623
2010	690
2015	768
2020	817

Our action today in approving the above budgets has the effect of replacing the previously-approved CO motor vehicle emissions budgets from the Las Vegas Valley 2000 CO plan for the purposes of transportation conformity.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves an air quality plan as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state plan implementing a Federal standard and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 6, 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 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 20, 2006.

Wayne Nastri,

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 DD—Nevada

■ 2. Section 52.1470 is amended by adding paragraphs (c)(57) and (c)(58) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(57) The following plan revision was submitted on February 14, 2006, by the Governor's designee.

(i) Incorporation by reference.

(A) Clark County Department of Air Quality and Environmental Management.

(1) Carbon Monoxide State Implementation Plan Revision, Las Vegas Valley Nonattainment Area, Clark County, Nevada, adopted on October 4, 2005 by the Clark County Board of Commissioners (with the exception of section 7.3 (page 7–2), "Mobile Source Emissions Budget").

(58) The following plan revision was submitted on May 12, 2006, by the Governor's designee.

(i) Incorporation by reference.

(A) Clark County Department of Air Quality and Environmental Management.

(1) Section 7.3 (page 7–2), "Mobile Source Emissions Budget" of the Carbon Monoxide State Implementation Plan Revision, Las Vegas Valley Nonattainment Area, Clark County, Nevada, adopted on May 2, 2006 by the Clark County Board of Commissioners.

[FR Doc. E6–12761 Filed 8–4–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 051014263–6028–03; I.D. 080106A]

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Shore-based Sector and the Resumption of Trip Limits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS announces the end of the 2006 primary season for the Pacific whiting (whiting) shore-based sector at 6 p.m. local time (l.t.) August 2, 2006, because the allocation is projected to be reached. This action is intended to keep the harvest of whiting at the 2006 allocation levels.

DATES: Effective from 6 p.m. l.t. August 2, 2006, until January 1, 2007.

Comments will be accepted through August 22, 2006.

ADDRESSES: You may submit comments, identified by [docket number and/or RIN number], by any of the following methods:

- E-mail:

WhitingSBclosure2006.nwr@noaa.gov
Include [docket number and/or RIN number] in the subject line of the message.

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

- Fax: 206–526–6736, Attn: Becky Renko.

- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Becky Renko.

FOR FURTHER INFORMATION CONTACT: Becky Renko at 206–526–6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California.

The regulations at 50 CFR 660.323(a) establish separate allocations for the catcher/processor, mothership, and shore-based sectors of the whiting fishery. For 2006, the 232,069 mt commercial harvest guideline for whiting is divided with the catcher/processor sector receiving 78,903 mt (34 percent); the mothership sector receiving 55,696 mt (24 percent); and the shore-based sector receiving 97,469 mt (42 percent).

Regulations at 50 CFR 660.373(b) describe the primary season for each sector. The primary season for the shore-based sector is the period(s) when the large-scale target fishery is conducted, and when "per trip" limits are not in effect. Before and after the primary season, per-trip limits are in effect for whiting.

The best available information on July 31, 2006, indicates that 81,159 mt had been taken through July 27, 2006, 2006, and that the 97,469 mt shore-based allocation will be reached by August 2, 2006. This **Federal Register** document announces that the primary season for the shore-based sector ends on August 2, 2006, and a 10,000–lb (4,536–kg) trip limit is imposed. Per-trip limits are for vessels using large or small footrope trawl gear and are intended to accommodate small bait and fresh fish markets, and bycatch in other fisheries. To minimize incidental catch of Chinook salmon by vessels fishing shoreward of the 100–fm (183–m) contour in the Eureka area, at any time during a fishing trip, a limit of 10,000 lb (4,536 kg) of whiting is in effect year-round, except when landings of whiting are prohibited.

NMFS Action

For the reasons stated above, and in accordance with the regulations at 50 CFR 660.323(b)(3), NMFS herein announces:

Effective 6 p.m. l.t. August 2, 2006, no more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed or landed by any vessel participating in the shore-based sector of the whiting fishery, unless otherwise announced in the **Federal Register**. If a vessel fishes shoreward of the 100–fm (183–m) contour in the Eureka area (43°–40°30' N. lat.) at any time during a fishing trip, the 10,000–lb (4,536–kg)