Appendix A

EPA Determination of NYMA Attainment of the 1997 Annual $PM_{2.5}$ NAAQS

under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. *See* 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 206, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
206	12–1–10	1–1–11	2.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 206, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
206	12–1–10	1–1–11	2.25	4.00	4.00	4.00	7	8

Issued in Washington, DC, on November 8, 2010.

Vincent K. Snowbarger,

Deputy Director for Operations, Pension Benefit Guaranty Corporation.

[FR Doc. 2010–28570 Filed 11–12–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA–R02–OAR–2010–0659; FRL–9225–6]

Approval and Promulgation of Air Quality Implementation Plans; New York, New Jersey, and Connecticut; Determination of Attainment of the 1997 Fine Particle Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is determining that the New York-Northern New Jersey-Long Island, NY-NJ-CT fine particle ($PM_{2.5}$) nonattainment area for the 1997 fine particle National Ambient Air Quality Standard (NAAQS) has attained the 1997 $PM_{2.5}$ NAAQS.

DATES: *Effective Date:* This rule will become effective on December 15, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2010–0659. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.,* confidential business information (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 for public inspection during normal business hours at the Air Programs Branch, U.S. Environmental Protection Agency, Region II, 290 Broadway, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT: Henry Feingersh, (212) 637–3382, or by e-mail at *feingersh.henry@epa.gov* if you have questions related to New York or New Jersey. If you have questions related to Connecticut, please contact Alison C. Simcox, (617) 918–1684, or by e-mail at *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we", "us", or "our" is used, we mean EPA.

The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. What action is EPA taking?
II. What comments were received and what is EPA's response?
III. What is the effect of this action?
IV. Final Action
V. Statutory and Executive Order Reviews

I. What action is EPA taking?

EPA is determining that the New York-Northern New Jersey-Long Island, NY-NJ-CT fine particle ($PM_{2.5}$) nonattainment area, referred to from this point forward as the NY-NJ-CT fine particle ($PM_{2.5}$) nonattainment area, for the 1997 $PM_{2.5}$ NAAQS has attained the 1997 $PM_{2.5}$ NAAQS. This determination is based upon quality assured, quality controlled and certified ambient air monitoring data that show the area has monitored attainment of the 1997 $PM_{2.5}$ NAAQS for the 2007–2009 monitoring period. Other specific requirements of the determination and the rationale for

EPA's proposed action are explained in the proposed rulemaking published on August 2, 2010 (75 FR 45076) and will not be restated here.

In addition, EPA is determining that the 1997 $PM_{2.5}$ NAAQS has been attained for the NY-NJ-CT fine particle ($PM_{2.5}$) nonattainment area by the initial attainment date of no later than April 5, 2010 as required under the provisions of EPA's $PM_{2.5}$ implementation rule (*see* 40 CFR 51.1004).

EPA notes that the State of New York provided information in support of the Clean Data Determination which EPA considered in this action. On June 9, 2010, EPA received a Clean Data petition from New York, requesting a determination that the New York State portion of the NY-NJ-CT fine particle ($PM_{2.5}$) nonattainment area for the 1997 $PM_{2.5}$ NAAQS has attained the 1997 $PM_{2.5}$ NAAQS. In the petition, New York provided additional technical information supporting a Clean Data determination for the area, including a list of Federal and State emission control measures that have contributed to attainment of the 1997 $PM_{2.5}$ NAAQS, and a listing of annual $PM_{2.5}$ design values for the 2007–09 time period for air monitors located in the NY-NJ-CT fine particle ($PM_{2.5}$) nonattainment area. New York also provided an estimate of design values for sites that had less than complete air monitoring data due to site closure. The additional information provided by New York is further discussed in the Technical Support document (TSD), and is available in the docket.

II. What comments were received and what is EPA's response?

No public comments were received in response to the proposal.

III. What is the effect of this action?

This final action, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, reasonable further progress plans (RFP), contingency measures, and other planning State implementation plans (SIPs) related to attainment of the 1997 $PM_{2.5}$ NAAQS for so long as the area continues to attain the 1997 $PM_{2.5}$ NAAQS.

This action does not constitute a redesignation to attainment under section 107(d)(3) of the Clean Air Act (CAA), because the area does not have an approved maintenance plan as required under section 175A of the CAA, nor a determination that the area has met the other requirements for redesignation. The designation status of the area remains nonattainment for the 1997 annual $PM_{2.5}$ NAAQS until such time as EPA determines that it meets the CAA requirements for redesignation to attainment.

IV. Final Action

EPA is determining that the NY-NJ-CT fine particle ($PM_{2.5}$) nonattainment area for the 1997 $PM_{2.5}$ NAAQS has attained the 1997 $PM_{2.5}$ NAAQS. This determination is based upon quality assured, quality controlled, and certified ambient air monitoring data that show that the area has monitored attainment of the 1997 $PM_{2.5}$ NAAQS for the 2007–2009 monitoring period. This final action, in accordance with 40 CFR 51.1004(c), will suspend the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, RFP, contingency measures, and other planning SIPs related to attainment of the 1997 $PM_{2.5}$ NAAQS for so long as the area continues to attain the 1997 $PM_{2.5}$ NAAQS.

V. Statutory and Executive Order Reviews

A. General 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 not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action makes a determination based on air quality data, and results in the suspension of certain Federal requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule makes a determination based on air quality data, and results in the suspension of certain Federal requirements, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have Tribal implications because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely makes a determination based on air quality data and results in the suspension of certain Federal requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks" (62 FR 19885, April 23, 1997) because it determines that air quality in the affected area is meeting Federal standards.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply because it would be inconsistent with applicable law for EPA, when determining the attainment status of an area, to use voluntary consensus standards in place of promulgated air quality standards and monitoring procedures otherwise satisfying the provisions of the CAA.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

B. Submission to Congress and the Comptroller General

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 action 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).

C. Petitions for Judicial Review

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 January 14, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, pertaining to the NY-NJ-CT $PM_{2.5}$ nonattainment area clean data determination, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 19, 2010.

H. Curtis Spalding,

Acting Regional Administrator, Region I.

Dated: September 29, 2010.

Judith A. Enck,

Acting Regional Administrator, Region II.

■ 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 H—Connecticut

■ 2. Section 52.379 is amended by redesignating the introductory paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 52.379 Control strategy: $PM_{2.5}$.

(a) * * *

(b) *Determination of Attainment.* EPA has determined, as of December 15, 2010, that the New York-Northern New Jersey-Long Island, NY-NJ-CT fine particle ($PM_{2.5}$) nonattainment area has attained the 1997 $PM_{2.5}$ National Ambient Air Quality Standard. This determination, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as the area continues to attain the 1997 $PM_{2.5}$ NAAQS.

Subpart FF—New Jersey

■ 3. Section 52.1602 is amended by adding new paragraph (c) to read as follows:

§ 52.1602 Control strategy and regulations: $PM_{2.5}$.

* * * * *

(c) Determination of Attainment. EPA has determined, as of December 15, 2010, that the New York-Northern New Jersey-Long Island, NY-NJ-CT fine particle ($PM_{2.5}$) nonattainment area has attained the 1997 $PM_{2.5}$ National Ambient Air Quality Standard. This determination, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as the area continues to attain the 1997 $PM_{2.5}$ NAAQS.

Subpart HH—New York

■ 4. Section 52.1678 is amended by adding new paragraph (e) to read as follows:

§ 52.1678 Control strategy and regulations: Particulate matter.

* * * * *

(e) Determination of Attainment. EPA has determined, as of December 15, 2010, that the New York-Northern New Jersey-Long Island, NY-NJ-CT fine particle ($PM_{2.5}$) nonattainment area has attained the 1997 $PM_{2.5}$ National Ambient Air Quality Standard. This determination, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably control available measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as the area continues to attain the 1997 $PM_{2.5}$ NAAQS.

[FR Doc. 2010–28504 Filed 11–12–10; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 447

[CMS–2238–F2]

RIN 0938–AP67

Medicaid Program; Withdrawal of Determination of Average Manufacturer Price, Multiple Source Drug Definition, and Upper Limits for Multiple Source Drugs

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule withdraws two provisions from the "Medicaid Program; Prescription Drugs" final rule (referred to hereafter as "AMP final rule") published in the July 17, 2007 **Federal Register**. The provisions we are withdrawing are as follows: The determination of average manufacturer price, and the Federal upper limits for multiple source drugs. We are also withdrawing the definition of "multiple source drug" as it was revised in the "Medicaid Program; Multiple Source Drug Definition" final rule published in the October 7, 2008 **Federal Register**.

DATES: *Effective Date:* These regulations are effective on December 15, 2010.

FOR FURTHER INFORMATION CONTACT: Wendy Tuttle, (410) 786–8690.

SUPPLEMENTARY INFORMATION:

I. Background

On September 3, 2010, we published a proposed rule (75 FR 54073) in the **Federal Register** to withdraw two provisions from the "Medicaid Program; Prescription Drugs" final rule published in the July 17, 2007 **Federal Register** (72 FR 39142) (referred to hereafter as "AMP final rule"). The provisions we proposed to withdraw are as follows:

- Section 447.504 "Determination of AMP."
- Section 447.514 "Upper limits for multiple source drugs."

We also proposed to withdraw the definition of "multiple source drug" as it was revised in the "Medicaid Program; Multiple Source Drug Definition" final rule published in the October 7, 2008 **Federal Register** (73 FR 58491).

The AMP final rule, published in the July 17, 2007 **Federal Register** (72 FR 39142), implemented sections 6001(a) through (d), 6002, and 6003 of the Deficit Reduction Act of 2005 (Pub. L. 109–171, enacted on February 8, 2006) (DRA) as well as codified parts of