

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY MANAGEMENT**

**Repeal of New Jersey's Oxygenated Gasoline (Wintertime Oxygenated Fuel) Program
Notice of Operative Date of Rule Amendments and Repeals Adopted July 17, 1998**

The Department of Environmental Protection (DEP) hereby gives notice that recent actions of the United States Environmental Protection Agency (USEPA) concerning New Jersey's wintertime oxygenated fuel program have fulfilled the contingency for operation of the DEP's 1998 rulemaking action amending certain portions and repealing certain portions of N.J.A.C. 7:27-25, as discussed below.

On July 17, 1998, the DEP adopted amendments to N.J.A.C. 7:27-25.1, 25.3, 25.4, 25.11 and 7:27A-3.10 and adopted the repeal of N.J.A.C. 7:27-25.8 and 25.9 to eliminate requirements that the gasoline sold in the northern New Jersey counties of Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union and Warren (oxygen program control area) between November 1 of each year and the last day of the following February contain 2.7 percent oxygen by weight. See 30 N.J.R. 3025(b). (These requirements are also known as the "wintertime oxygenated fuel program.") As the DEP explained in the 1998 adoption, however, the repeal of the wintertime oxygenated fuel program would become operative upon a finding by the USEPA that those areas within the oxygen program control area that are formally designated nonattainment for carbon monoxide are in attainment of the National Ambient Air Quality Standard (NAAQS) for carbon monoxide. This finding of attainment would mean, under Section 211(m)(6) of the Clean Air Act (42 U.S.C. §7545(m)(6)), that the wintertime oxygenated fuel program would no longer be required in those attaining areas. The State demonstrated that these areas have attained the NAAQS for carbon monoxide as part of its proposed revision to New Jersey's State Implementation Plan (SIP) for carbon monoxide, submitted to the USEPA on August 7, 1998.

The DEP is publishing this notice because it committed in its July 17, 1998 adoption of amendments and repeals to the wintertime oxygenated fuel program rule that it would publish notice of the operative date of the adoption in the New Jersey Register, after the USEPA made the necessary finding of attainment.

In the September 9, 1999 Federal Register, the USEPA proposed to approve New Jersey's SIP revision removing the wintertime oxygenated fuel program from the New Jersey carbon monoxide SIP. In that proposed rule, the USEPA determined that the New York-Northern New Jersey-Long Island carbon monoxide nonattainment area (the carbon monoxide nonattainment area which includes the New Jersey counties where wintertime oxygenated fuels had been required) has attained the NAAQS for carbon monoxide. Further, the USEPA determined that the criteria of Section 211(m)(6) of the Clean Air Act have been satisfied and the removal of the wintertime oxygenated fuel program is appropriate. See 64 Fed. Reg. 48970 (September 9, 1999.)

Thus, the DEP's adoption of rule amendments and repeals ending the wintertime oxygenated fuel program in New Jersey is operative as of September 9, 1999. As a result, gasoline sold in New Jersey need only meet the year-round federal reformulated gasoline (RFG) requirements.