

TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply.]

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	
*	*		*	*	*	*	*	*	*
72	10-1-99	11-1-99	5.00	4.25	4.00	4.00	7	8	

Issued in Washington, DC, on this 7th day of September 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL-6437-3]

Notice of Direct Final Rule Revisions to Emissions Budgets Set Forth in EPA's Finding of Significant Contribution and Rulemaking for Purposes of Reducing Regional Transport of Ozone for the States of Connecticut, Massachusetts and Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On October 27, 1998, EPA published a final action requiring 22 States and the District of Columbia to submit State implementation plan (SIP) revisions to prohibit specified amounts of emissions of oxides of nitrogen (NO_x)—one of the precursors to ozone (smog) pollution—for the purpose of reducing NO_x and ozone transport across State boundaries in the eastern half of the United States. This action is referred to as the NO_x SIP Call.

Subsequent to that rulemaking, three States, Connecticut, Massachusetts and Rhode Island, approached EPA with concerns about the distribution of the emission reduction requirements to the three States. While the States agreed that the amount of the overall emission reductions that EPA was requiring from the three State region was appropriate, the States had concerns about the specific emission reductions that EPA was requiring from each of the three

individual States. In particular, the States were concerned that the emission reduction requirements were inconsistent with the emission reductions that those States were requiring in connection with an existing multi-state effort to reduce NO_x and ozone transport across State boundaries in the northeastern portion of the United States.

In response to these concerns, EPA and the States of Connecticut, Massachusetts and Rhode Island signed a memorandum of understanding (MOU) in February 1999. This MOU required EPA to take action to redistribute the NO_x emission reduction requirements among the three States. In the MOU, the three States and EPA agreed that EPA would propose a specific redistribution of the combined electric generating stationary source (EGU) portion of the budget for the three States.

Subsequent to the signing of the MOU, EPA took a final action that changed the EGU portion of the budget for the three States in a Technical Amendment to the NO_x SIP Call published on May 14, 1999. EPA is now taking direct final action to redistribute the States' budgets. The final redistribution that EPA is promulgating is slightly different than the redistribution as stated in the MOU to reflect and remain consistent with the May 14, 1999 changes to the budgets.

DATES: This rule is effective on November 1, 1999 without further notice, unless EPA receives adverse comment by October 5, 1999. If such comments are received, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Any written comments must be identified with Docket No. A-99-13, must be identified as comments on the direct final rule and companion proposal and must be submitted in

duplicate to: EPA Air Docket (6102), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the address given above. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Kathryn Petrillo, Acid Rain Division (6204J) U.S. Environmental Protection Agency, 401 M Street SW, Washington DC 20460, telephone number (202) 564-9093; e-mail: petrillo.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION: EPA is publishing this rule without prior proposal because EPA views this redistribution of the EGU portions of Connecticut, Massachusetts and Rhode Island's NO_x budgets as noncontroversial and anticipates no adverse comment. EPA believes this rule is not controversial for the following reasons: (1) Connecticut, Massachusetts, Rhode Island and EPA signed an MOU agreeing to the action taken by this rule; (2) the rule does not result in an overall increase in NO_x emissions; (3) the rule is consistent with the final State budgets published in the May 14, 1999 Technical Amendment to the NO_x SIP Call; and (4) the rule is consistent with the goals of the NO_x SIP Call. However, in the "Proposed Rules" section of today's **Federal Register** EPA is publishing a separate document that will serve as a proposed rule to redistribute the EGU portions of these States' budgets if EPA receives any timely adverse comment. If EPA receives timely adverse comment, EPA will publish a withdrawal in the **Federal Register** informing the public that the direct final rule will not take effect. EPA will then address all significant public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action.

Any parties interested in commenting must do so at this time.

The information in this preamble is organized as follows:

- I. Background
- II. Determination of Budgets
- III. Changes to the EGU Budgets for the States of Connecticut, Massachusetts and Rhode Island
- IV. Administrative Requirements
 - A. Executive Order 12866: Regulatory Impact Analysis
 - B. Regulatory Flexibility Act: Small Entity Impacts
 - C. Unfunded Mandates Reform Act
 - D. Paperwork Reduction Act
 - E. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
 - F. Executive Order 12898: Environmental Justice
 - G. Executive Order 12875: Enhancing the Intergovernmental Partnerships
 - H. Executive Order 13016: Consultation and Coordination with Indian Tribal Governments
 - I. National Technology Transfer and Advancement Act
 - J. Judicial Review
 - K. Congressional Review Act

I. Background

On October 27, 1998, EPA published a final action finding that NO_x emissions from emitting activities (sources) in 23 jurisdictions (22 States, including the States of Connecticut, Massachusetts and Rhode Island, and the District of Columbia) significantly contribute to nonattainment of the 1-hour and 8-hour ozone NAAQS or will interfere with maintenance of the 8-hour NAAQS, in one or more downwind States throughout the Eastern United States (63 FR 57356, October 27, 1998). Each of these jurisdictions (referred to hereinafter as "States") is required to adopt and submit a SIP revision containing control measures that will assure that sources in the State reduce their NO_x emissions sufficiently to eliminate the amounts of NO_x emissions that contribute significantly to nonattainment or that will interfere with maintenance in a downwind State. By eliminating these amounts of NO_x emissions, the control measures will assure that the remaining NO_x emissions will meet the States' NO_x emissions budget, as prescribed to each

State in the amended May 14, 1999 Technical Amendments to the State's budgets. See 64 FR 26298, May 14, 1999. In today's action, EPA is promulgating adjusted State NO_x emissions budgets for Connecticut, Massachusetts and Rhode Island. While this adjustment will lead to different emission budgets for each of the three States, the combined budgets for the three States will remain the same as the combined budgets for the three States finalized in the May 14, 1999 Technical Amendments to the NO_x SIP Call.

Following EPA's finalization of the NO_x SIP Call in the fall of 1998, numerous parties filed petitions for review of the rule with the D.C. Circuit. The petitions were consolidated into case no. 98-1497 and briefing of the case is now under way. On May 25, 1999, the D.C. Circuit issued a stay of the requirement that States submit revised SIPs in accordance with the NO_x SIP call. That stay continues pending further order of the Court. EPA is taking action today to revise the budgets of Connecticut, Massachusetts, and Rhode Island in anticipation of the lifting of the stay at some time in the future.

II. Determination of Budgets

The EPA determined the overall NO_x emission budgets for each State by projecting the total amount of NO_x emissions that sources in each covered State would emit, in light of expected growth, in 2007 taking into account measures required under the CAA. The EPA then projected the total amount of NO_x emissions that all of the sources in each of those States would emit in 2007 if each such State applied control measures that EPA determined to be highly cost effective. The total amount of NO_x emissions remaining after application of EPA's assumed control measures is the State's "budget." Each State budget consists of smaller sector budgets, including budgets for mobile sources, area sources, EGUs, and non-EGU stationary sources. The smaller sector budgets exist only for purposes of calculating the larger State budget; they are not enforceable against a State. The specific methodologies used to calculate these budgets are explained in section III of the final NO_x SIP Call rule. (63 FR 57405-439)

III. Changes to the EGU Budgets for the States of Connecticut, Massachusetts and Rhode Island

After finalization of the NO_x SIP Call, the State of Connecticut approached EPA with concerns about the size of the EGU portion of its State budget under the NO_x SIP Call. These concerns related to differences between the State's EGU budget under the NO_x SIP Call and the State's budget under Phase III of the Ozone Transport Region's (OTR) program.

The OTR is comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia. The OTR was created in 1990, under section 184 of the Clean Air Act, to address the problems associated with ozone transport in the Northeast. On September 27, 1994, 11 of the States in the OTR and the District of Columbia signed a Memorandum of Understanding agreeing to a regional strategy to reduce NO_x from power plants and other large fuel combustion sources. This strategy involved a multi-phased approach and allowed sources to demonstrate compliance through the use of a region-wide trading program. Phase II of the program began on May 1, 1999, and Phase III is scheduled to begin on May 1, 2003. Under Phase III of the OTR strategy, Connecticut's budget for sources similar to the EGU sources under the NO_x SIP Call is larger than it is under the EGU portion of the State's NO_x SIP Call budget. Conversely, the budgets for Massachusetts and Rhode Island are smaller under Phase III of the OTR than the budgets are under the NO_x SIP Call.

The following table shows for the three States: the OTC Phase III budgets, EGU budgets for sources similar to EGUs; the EGU budgets under the NO_x SIP call; the EGU budgets under the February 1999 MOU, and the EGU budgets under today's rule; and the compliance supplement pool (a pool of 200,000 tons divided among the 23 affected States according to their emission reduction responsibilities under the NO_x SIP Call) under the NO_x SIP call and today's rule.

TABLE 1

	OTC phase III budget	5/14/99 EGU portion of the NO _x SIP call budget	EGU budget under MOU	EGU budget under direct final rule	5/14/99 compliance supplement pool	Compliance supplement pool under direct final rule
CT	4,477	2,652	4,549	4,564	549	473

TABLE 1—Continued

	OTC phase III budget	5/14/99 EGU portion of the NO _x SIP call budget	EGU budget under MOU	EGU budget under direct final rule	5/14/99 compliance supplement pool	Compliance supplement pool under direct final rule
MA	13,789	15,145	13,203	13,245	397	473
RI	626	997	982	985	15	15
CT, MA and RI	18,892	18,794	18,734	18,794	961	961

Because Connecticut raised concerns, EPA and Connecticut, Massachusetts and Rhode Island initiated discussions about reallocating the EGU budgets for all three States. All parties agreed that any reallocation of the budgets should not result in a higher combined overall EGU budget for the three States. In fact, Connecticut, Massachusetts and Rhode Island agreed that any reallocation of the budget should actually be accompanied by an agreement among the three States to meet a more stringent budget. In February 1999, the parties signed an MOU.

In that MOU, EPA committed to propose a rulemaking to change the EGU portion of the budgets for the three States. EPA also committed to propose changes to the size of the compliance supplement pools for the three States. In the MOU, EPA and the States agreed upon EGU budgets and the compliance supplement pools for all three States. This agreement was based on redistributing, among the three States, the EGU portion of the combined budget for the three States and the combined compliance supplement pool for the three States. These redistributions were based upon the budgets and the compliance supplement pool as finalized on October 27, 1998. In the October 27, 1998 action, the final combined EGU budget for the three States was 18,734 tons and the combined compliance supplement pool was 844 tons. On May 14, 1999, EPA promulgated a Technical Amendment to the NO_x SIP Call amending the State budgets and the compliance supplement pool (64 FR 26298–306). The combined EGU budget for the three States in this amendment was 18,794 tons and the combined compliance supplement pool was 961 tons. In redistributing both the combined EGU budgets and the combined compliance supplement pool, EPA started by distributing to each of the three States, the number of tons agreed to in the MOU. This resulted in State EGU budgets of 4,549 tons for Connecticut, 13,203 tons for Massachusetts and 982 tons for Rhode Island. EPA then redistributed the remaining 60 tons in the combined States EGU budgets using the same

percentages used to distribute the original EGU portion of the budget in the MOU (i.e., 24.3% for Connecticut, 70.5% for Massachusetts and 5.2% for Rhode Island). EPA used a similar methodology in redistributing the compliance supplement pool. First, EPA distributed 422 tons to both Connecticut and Massachusetts because this was what was agreed to in the MOU. Then EPA distributed 15 tons to Rhode Island. EPA did this because Rhode Island did not receive any compliance supplement pool allowances under the original budgets promulgated on October 27, 1998 notice or in the MOU, but Rhode Island did receive 15 tons of compliance supplement pool allowances under the amended budgets finalized on May 14, 1999. Finally, EPA distributed the remaining 102 tons based on the percentages used to distribute the original compliance supplement pool in the MOU (50% for Connecticut and 50% for Massachusetts). The redistributed budgets and the redistributed compliance supplement pools are also found in Table 1. Furthermore, all three States agreed to further reduce their combined EGU budgets by at least 5% and to retire that 5% to the benefit of the environment.

EPA believes that these revisions are consistent with the goals of the NO_x SIP Call. The NO_x SIP Call specifically allows, and in fact encourages, States to consider emissions trading as a cost-effective means of achieving NO_x reductions from EGUs. The effect of the redistribution of the EGU portion of the overall budget being promulgated in today's rule is no different than the effect of a redistribution of similar magnitude of the EGU portion of the budget that could occur if a State chose to participate in a multi-State trading program. Furthermore, the magnitude of the changes in the EGU budgets for the three States (i.e., 1,912 tons for Connecticut, –1,900 tons for Massachusetts and –12 tons for Rhode Island) is within a range that EPA found did not interfere with the goal of the NO_x SIP Call to reduce transport of significant amounts of NO_x to downwind non-attainment areas when

analyzing whether inter-State trading was an effective tool to use under the NO_x SIP Call. In that analysis, EPA saw fluctuations of up to 9,500 tons for a given State (Docket # A–96–56).

In addition, as noted in the MOU, Connecticut, Massachusetts and Rhode Island all belong to the same power pool. Since dispatch is determined on the power pool level rather than the State level, dispatch itself may result in redistribution of generation and resulting emissions among the States in the power pool. EPA therefore believes that a redistribution, based on the MOU, of budgets within that power pool is appropriate if the same overall budget results. Finally, the additional reductions that the three States have committed to result in an additional reduction of 940 tons, which represents 0.17% of the region-wide EGU budget.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is “significant” and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines “significant regulatory action” as one that is likely to result in a rule that may: 1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA determined that the October 27, 1998 NO_x SIP Call rulemaking was significant. Therefore, EPA submitted

the final rulemaking to OMB for review and prepared a Regulatory Impact Analysis (RIA) entitled "Regulatory Impact Analysis for the Regional NO_x SIP Call (September 1998)." See 63 FR 57477.

This RIA assesses the costs, benefits, and economic impacts associated with potential State implementation strategies for complying with the NO_x SIP Call rulemaking. Any written comments from OMB to EPA and any written EPA response to those comments are included in the NO_x SIP Call docket (A-96-56 and A-9-35). The RIA is available in hard copy by contacting the EPA Library at the address under ADDRESSES.

Today's direct final rule requires the same overall emission reductions as under the October 27, 1998 NO_x SIP Call. Because the direct final rule does not impose any new regulatory burdens and makes only minor changes to the October 27, 1998 NO_x SIP Call, the direct final rule is not significant.

B. Regulatory Flexibility Act: Small Entity Impacts

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (Pub. L. No. 104-121) (SBREFA), provides that whenever an agency is required to publish a general notice of proposed rulemaking, the agency must prepare and make available an initial regulatory flexibility analysis, unless it certifies that the final direct rule, if promulgated, will not have "a significant economic impact on a substantial number of small entities." 5 U.S.C. 605(b). Courts have interpreted the RFA to require a regulatory flexibility analysis only when small entities will be subject to the requirements of the rule. See *Motor and Equip. Mfrs. Ass'n v. Nichols*, 142 F.3d 449 (D.C. Cir. 1998); *United Distribution Cos. v. FERC*, 88 F.3d 1105, 1170 (D.C. Cir. 1996); *Mid-Tex Elec. Co-op, Inc. v. FERC*, 773 F.2d 327, 342 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to the rule).

EPA determined that the October 27, 1998 NO_x SIP Call does not establish requirements applicable to small entities. Instead, the NO_x SIP Call requires States to develop, adopt, and submit SIP revisions that will achieve the necessary NO_x emissions reductions, and leaves to the States the task of determining how to obtain those reductions, including which entities to regulate. Moreover, because affected States have discretion to choose which sources to regulate and how much emissions reductions each selected

source has to achieve, EPA could not predict the effect of the rule on small entities.

For these reasons, EPA certified that the October 27, 1998 NO_x SIP Call would not have a significant impact on a substantial number of small entities. Nevertheless, the Agency conducted a more general analysis of the potential impact on small entities of possible State implementation strategies. This analysis is documented in the RIA. See 63 FR 57478.

Since today's direct final rule does not change the regulatory burdens under, and makes only minor changes to, the October 27, 1998 NO_x SIP Call, the RIA analysis and the basis for the NO_x SIP Call certification are applicable to the final direct rule. Therefore, I certify that this action will not have a significant impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4) (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rule that "includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more * * * in any one year." A "Federal mandate" is defined under section 421(6), 2 U.S.C. 658(6), to include a "Federal intergovernmental mandate" and a "Federal private sector mandate." A "Federal intergovernmental mandate," in turn, is defined to include a regulation that "would impose an enforceable duty upon State, local, or tribal governments," section 421(5)(A)(i), 2 U.S.C. 658(5)(A)(i), except for, among other things, a duty that is "a condition of Federal assistance," section 421(5)(A)(i)(I). A "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector," with certain exceptions, section 421(7)(A), 2 U.S.C. 658(7)(A).

Before promulgating an EPA rule for which a written statement is needed under section 202 of the UMRA, section 205, 2 U.S.C. 1535, of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

For several reasons, EPA did not reach a final conclusion as to the applicability of the requirements of UMRA to the October 27, 1998 NO_x SIP Call. First, EPA stated that it is questionable whether a requirement to submit a SIP revision would constitute a federal mandate in any case. The obligation for a state to revise its SIP that arises out of sections 110(a) and 110(k)(5) of the CAA is not legally enforceable by a court of law and at most is a condition for continued receipt of highway funds. Therefore, it is possible to view an action requiring such a submittal as not creating any enforceable duty within the meaning of section 421(5)(9a)(I) of UMRA (2 U.S.C. 658 (a)(I)). Even if it did, the duty could be viewed as falling within the exception for a condition of Federal assistance under section 421(5)(a)(i)(I) of UMRA (2 U.S.C. 658(5)(a)(i)(I)).

However, notwithstanding these issues, EPA prepared the statement that would be required by UMRA if its statutory provisions applied to the October 27, 1998 NO_x SIP Call and consulted with governmental entities as would be required by UMRA for the NO_x SIP Call. Consequently, EPA determined that it is not necessary to reach a conclusion as to the applicability of the UMRA requirements to the October 27, 1998 NO_x SIP Call. See 63 FR 57478.

Today's direct final rule does not change the regulatory burdens under, and makes only minor changes to, the October 27, 1998 NO_x SIP Call. Further, the written statement prepared for, and the consultations conducted in connection with, the October 27, 1998 NO_x SIP Call are fully applicable to the final direct rule. Consequently, for the reasons set forth in the preamble of the October 27, 1998 NO_x SIP Call, it is not necessary to reach a conclusion as to the applicability of the UMRA requirements.

D. Paperwork Reduction Act

Today's direct final rule does not impose any new information collection burden subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The three States subject to this rule, Connecticut, Massachusetts and Rhode Island, will be subject to the same reporting requirements that they are subject to under the October 27, 1998 NO_x SIP Call.

E. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The Executive Order 13045 applies to any rule that EPA determines (1) "economically significant" as defined

under Executive Order 12866 and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA determined that the October 27, 1998 NO_x SIP Call is not subject to Executive Order 13045 because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children. However, the Agency conducted a general analysis of the potential changes in ozone and particulate matter levels experienced by children as a result of the October 27, 1998 NO_x SIP Call; these findings are presented in the RIA. See 63 FR 57479.

Today's direct final rule does not change the overall emission reductions under the October 27, 1998 NO_x SIP Call. Consequently, the determination concerning Executive Order 13045 and the RIA analysis are fully applicable to the final direct rule.

F. Executive Order 12898: Environmental Justice

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The Agency conducted a general analysis of the potential changes in ozone and particulate matter levels that may be experienced by minority and low-income populations as a result of the October 27, 1998 NO_x SIP Call; these findings are presented in the RIA. See 63 FR 57479.

Today's direct final rule does not change the overall emission reductions under the October 27, 1998 NO_x SIP Call. Consequently, the RIA analysis is fully applicable to the final direct rule.

G. Executive Order 12875: Enhancing The Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If

EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. As explained in the discussion of UMRA, the direct final rule does not impose an enforceable duty on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

H. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. The rule applies only to certain States and does not require Indian tribal governments to

take any action. Moreover, EPA does not, by today's rule, call on States to regulate NO_x sources located on tribal lands. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Pub L. No. 104-113, section 12(d), 15 U.S.C. 272 note) (NTTAA), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's direct final rule does not include any environmental monitoring and measurement provisions. Therefore, section 12(d) of the NTTAA does not apply.

J. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions for review of final actions by EPA. This Section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit if (i) the agency action consists of "nationally applicable regulations promulgated, or final action taken, by the Administrator," or (ii) such action is locally or regionally applicable, if "such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination."

As discussed in the preamble to the NO_x SIP Call, any final action related to the NO_x SIP Call is "nationally applicable" and "of nationwide scope or effect" within the meaning of section 307(b)(1). See 63 FR 57480. Thus, any petitions for review of final actions regarding the NO_x SIP Call must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

K. Congressional Review Act

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. The 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**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 1, 1999.

List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control, Administrative practice and procedure, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Transportation, Volatile organic compounds.

Dated: September 7, 1999.

Carol M. Browner,
Administrator.

40 CFR part 51 is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7410, 7414, 7421, 7470–7479, 7491, 7492, 7601, 7602.

Subpart G—Control Strategy [Amended]

2. Section 51.121 is amended to revise paragraphs (e)(2) and (e)(3)(iii) to read as follows:

§ 51.121 Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen.

* * * * *

(e) * * *

(2) The State-by-State amounts of the NO_x budget, expressed in tons, are as follows:

State	Budget
Alabama	172,037
Connecticut	44,993
Delaware	22,789
District of Columbia	6,672
Georgia	189,634
Illinois	274,799
Indiana	238,970
Kentucky	155,619
Maryland	81,625
Massachusetts	83,396

State	Budget
Michigan	224,582
Missouri	128,146
New Jersey	100,133
New York	240,123
North Carolina	168,373
Ohio	250,930
Pennsylvania	257,441
Rhode Island	9,798
South Carolina	124,211
Tennessee	197,664
Virginia	185,027
West Virginia	91,216
Wisconsin	136,172
Total	3,384,350

(3) * * *

(iii) The State-by-State amounts of the compliance supplement pool are as follows:

State	Compliance supplement pool (tons of NO _x)
Alabama	11,350
Connecticut	473
Delaware	127
District of Columbia	0
Georgia	11,179
Illinois	17,586
Indiana	20,390
Kentucky	14,495
Maryland	3,840
Massachusetts	473
Michigan	11,103
Missouri	10,783
New Jersey	1,479
New York	2,370
North Carolina	10,544
Ohio	22,320
Pennsylvania	15,662
Rhode Island	15
South Carolina	5,122
Tennessee	10,557
Virginia	6,914
West Virginia	16,410
Wisconsin	6,808
Total	200,000

* * * * *

[FR Doc. 99-23914 Filed 9-14-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL-6432-1]

Regulation of Fuel and Fuel Additives: Extension of California Enforcement Exemptions for Reformulated Gasoline Beyond December 31, 1999

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: With this direct final rule the EPA continues to exempt refiners, importers, and blenders of gasoline subject to the State of California's reformulated gasoline regulations from certain enforcement provisions in the Federal reformulated gasoline regulations. Current exemptions applicable under the Federal Phase I reformulated gasoline program will expire after December 31, 1999, when the Federal Phase II reformulated gasoline program begins. Today's direct final rule extends the California enforcement exemptions beyond that date. The Agency is publishing this action as a direct final rule because it does not expect it to be controversial. An accompanying notice of proposed rulemaking is being published in today's **Federal Register**.

DATES: This final rule is effective on January 1, 2000 unless adverse or critical comments are received by October 15, 1999. If adverse comments are received, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Any person wishing to submit comments should send them (in duplicate, if possible) to the docket address listed and to Anne Pastorkovich, Attorney/Advisor, U.S. Environmental Protection Agency, Fuels and Energy Division, 401 M Street, SW (6406J), Washington, D.C. 20460. Materials relevant to this direct final rule have been placed in docket [A-99-04] located at U.S. Environmental Protection Agency, Air Docket Section, Room M-1500, 401 M Street, SW, Washington, D.C. 20460. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m., Monday through Friday, except on Federal holidays. A reasonable fee may be charged for photocopying services.

FOR FURTHER INFORMATION CONTACT: For further information about this direct final rule, contact Anne Pastorkovich, Attorney/Advisor, Fuels & Energy Division, at (202) 564-8987. To notify EPA of an intent to submit an adverse comment or public hearing request, contact Anne Pastorkovich, (202) 564-8987.

SUPPLEMENTARY INFORMATION: The remainder of this direct final rule is organized in the following sections:

- I. Background
 - A. Regulated Entities
 - B. Current Status and Basis for California Exemptions
- II. Applicability of Exemptions Beginning in 2000 (Description of This Rule)
- III. Administrative Designation and Regulatory Analysis