

Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### 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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed 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 proposed rule is categorically excluded, under figure 2–1, paragraph (34)(e), of the Instruction, from further environmental documentation. Paragraph (34)(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of NEPA. Since this proposed rule will alter the normal operating conditions of the drawbridges, it falls within this exclusion.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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 the authority of P. L. 102–587, 106 Stat. 5039.

2. § 117.103 is revised to read as follows:

##### § 117.103 Bayou La Batre

The draw of the SR 188 Bridge, mile 2.3, at Bayou La Batre, will open on signal every hour on the hour daily between 4 a.m. and 8 p.m., Monday through Sunday. The bridge need not open for the passage of vessels on the hours of 7 a.m., 3 p.m., and 4 p.m., Monday through Friday. An additional opening will be made at 3:30 p.m., Monday through Friday for the passage of vessels. The bridge will remain closed to marine traffic from 8 p.m. to 4 a.m. daily except for emergencies.

Dated: February 15, 2005.

**R.F. Duncan,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 05–3919 Filed 2–28–05; 8:45 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Parts 51, 78, and 97

[Docket No. OAR–2004–0440; FRL–7876–2]

RIN 2060–AJ16

#### Stay of the Findings of Significant Contribution and Rulemaking for Georgia for Purposes of Reducing Ozone Interstate Transport

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** In this action, EPA is proposing to stay the effectiveness of a final rule we issued under section 110 of the Clean Air Act (CAA) related to the interstate transport of nitrogen oxides (NO<sub>x</sub>). On April 21, 2004, EPA issued a final rule that required the State of Georgia to submit State implementation plan (SIP) revisions that prohibit specified amounts of NO<sub>x</sub> emissions—one of the precursors to ozone (smog) pollution—for the purposes of reducing

NO<sub>x</sub> and ozone transport across State boundaries in the eastern half of the United States. This rule became effective on June 21, 2004.

Subsequently, the Georgia Coalition for Sound Environmental Policy (GCSEP or Petitioners) filed a petition for reconsideration requesting that EPA reconsider the inclusion of the State of Georgia in the NO<sub>x</sub> SIP Call Rule and also requested a stay of the effectiveness of the rule as it relates to the State of Georgia only.

In response to this petition, EPA is proposing to stay the effectiveness of the April 21, 2004 rule as it relates to the State of Georgia only, while EPA conducts notice-and-comment rulemaking to further address the issues raised by the Petitioners.

**DATES:** Comments must be received on or before March 31, 2005. A public hearing, if requested, will be held in Atlanta, Georgia on March 15, 2005, beginning at 9 a.m.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OAR-2004-0440, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- E-mail: [A-and-R-Docket@epa.gov](mailto:A-and-R-Docket@epa.gov).
- Fax: (202) 566-1741.
- Mail: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of 2 copies.

- Hand Delivery: EPA Docket Center (Air Docket), U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. OAR-2004-0440. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET,

regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov Web sites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, 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 in EDOCKET or in hard copy at the Air Docket, U.S. Environmental Protection Agency, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:**

General questions concerning today's action should be addressed to Jan King, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC 27711, telephone (919) 541-5665, e-mail [king.jan@epa.gov](mailto:king.jan@epa.gov). Legal questions should be directed to Winifred Okoye, Office of General Counsel, (2344A), 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone (202) 564-5446, e-mail [okoye.winifred@epa.gov](mailto:okoye.winifred@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Public Hearing**

A public hearing, if requested, will be held on March 15, 2005, beginning at 9 a.m. in Atlanta, Georgia. The hearing will be held at the U.S. Tax Court, Courtroom 1136, Russell Federal Building and Courthouse, 75 Spring Street, SW., Atlanta, Georgia 30303. If you wish to request a hearing and present testimony or attend the hearing, you should notify, on or before March 9, 2005, Jan King, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC 27711, telephone (919) 541-5665, e-mail [king.jan@epa.gov](mailto:king.jan@epa.gov). Oral testimony will be limited to 5 minutes each. The hearing will be strictly limited to the subject matter of the proposal, the scope of which is discussed below. Any member of the public may file a written statement by the close of the comment period. Written statements (duplicate copies preferred) should be submitted to Docket OAR-2004-0440, at the address listed above for submitted comments. The hearing schedule, including lists of speakers will be posted on EPA's Web page at <http://www.epa.gov/ttn/naaqs/ozone/rto/rto.html>. A verbatim transcript of the hearing and written statements will be made available for copying during normal working hours at the Office of Air and Radiation Docket and Information Center at the address listed for inspection of documents.

If no requests for a public hearing are received by close of business on March 9, 2005, the hearing will be cancelled. The cancellation will be announced on the Web page at the address shown above.

**Outline**

- I. Background
- II. What is the Scope of This Proposal?
- III. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act (RFA)
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer Advancement Act
  - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

## I. Background

On October 27, 1998, EPA found that emissions of NO<sub>x</sub> from 22 States and the District of Columbia (23 States) were significantly contributing to downwind areas' nonattainment of the 1-hour ozone national ambient air quality standard (NAAQS). (Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone, 63 FR 57354, October 27, 1998 (NO<sub>x</sub> SIP Call Rule)). More specifically, EPA found that the State of Georgia was significantly contributing to 1-hour ozone nonattainment in Birmingham, Alabama and Memphis, Tennessee. (63 FR 57394). The EPA set forth requirements for each of the affected upwind States to submit SIP revisions prohibiting those amounts of NO<sub>x</sub> emissions which significantly contribute to downwind nonattainment. The EPA further required that each State SIP provide for NO<sub>x</sub> reductions in amounts that any remaining emissions would not exceed the level specified in EPA's NO<sub>x</sub> SIP Call regulations for that State in 2007.

A number of parties, including certain States as well as industry and labor groups, challenged the NO<sub>x</sub> SIP Call Rule. More specifically, Georgia and Missouri industry petitioners citing to the Ozone Transport Assessment Group (OTAG), modeling and recommendations, maintained that EPA had record support only for the inclusion of eastern Missouri and northern Georgia, as significantly contributing to downwind nonattainment. And in *Michigan v. EPA*, 213 F. 3d 663 (DC Cir., 2000), cert. denied, 121 S. Ct. 1225 (2001) (*Michigan*), the DC Circuit Court vacated and remanded EPA's inclusion of the entire States of Georgia and Missouri, on grounds that OTAG had recommended NO<sub>x</sub> controls to reduce transport for areas within the fine grid parts of its modeling but recommended no additional controls for areas within the coarse grid of its modeling. Eastern Missouri and northern Georgia lie within the fine grid. The Court, however, did not question EPA's proposition that eastern Missouri and northern Georgia should be considered as significantly contributing to downwind nonattainment.

On February 22, 2002, EPA proposed the inclusion of only the fine grid parts of Georgia and Missouri in the NO<sub>x</sub> SIP Call. (Response to Court Decisions on the NO<sub>x</sub> SIP Call, NO<sub>x</sub> SIP Call Technical Amendments, and Section

126 Rules, 67 FR 8396, February 22, 2002.) The EPA also proposed revised NO<sub>x</sub> budgets for Georgia and Missouri that included only these portions of each State.

On April 21, 2004, EPA finalized, as proposed, the inclusion of eastern Missouri and northern Georgia in the NO<sub>x</sub> SIP Call Rule, allocated revised NO<sub>x</sub> budgets that reflected the inclusion of sources located in only these areas and set revised SIP submittal and full compliance dates of April 1, 2005, and May 1, 2007, respectively (69 FR 21604).

On June 16, 2004, the GCSEP filed a petition for reconsideration of the inclusion of the State of Georgia in the NO<sub>x</sub> SIP Call, under section 307(d) of the CAA. Petitioners maintained that grounds that were of central relevance had occurred after the close of notice-and-comment period for the February 22, 2002, proposal. More specifically, Petitioners cited EPA's March 12, 2004, 1-hour ozone attainment redesignation of Birmingham, Alabama (69 FR 11798). Additionally, GCSEP cited to the earlier January 17, 1995, Memphis, Tennessee, 1-hour ozone attainment redesignation (60 FR 3352), and maintained that the State of Georgia should not be subject to the NO<sub>x</sub> SIP Call Rule because it was no longer significantly contributing to 1-hour nonattainment in any downwind areas. Petitioners also raised other issues such as the effect of EPA's approval and the State of Georgia's implementation of the Atlanta, Georgia attainment demonstration SIP since May 1, 2003. Petitioners further requested a stay of the effectiveness of the April 21, 2004, rule as it relates to the State of Georgia, under section 307(d)(7)(B). Finally, GCSEP filed a challenge in the Court of Appeals for the 11th Circuit, which has since been transferred to the DC Circuit.

## II. What Is the Scope of This Proposal?

The EPA, in response to GCSEP's request, intends to initiate notice-and-comment rulemaking that will address the issues raised by GCSEP. In the upcoming proposal, EPA expects to provide notice-and-comment opportunity to the general public on the issues raised by GCSEP and several other issues as they relate to the continued applicability of the NO<sub>x</sub> SIP Call Rule to the State of Georgia. Accordingly, in this action, EPA is proposing to stay the effectiveness of the April 21, 2004, rule with respect to the State of Georgia only, during the pendency of the notice-and-comment rulemaking proceedings that will address the petition for reconsideration.

## III. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency must determine whether the 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.

OMB has exempted this regulatory action from Executive Order 12866 review. This action is proposing to stay its finding in Phase II of the NO<sub>x</sub> SIP Call related to Georgia and does not impose any additional control requirements or costs.

### B. Paperwork Reduction Act

Today's action does not add any information collection requirements or increase burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and therefore is not subject to these requirements.

### C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined in the Small Business Administration's (SBA)

regulations at 13 CFR 12.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This action neither imposes requirements on small entities nor will there be impacts on small entities beyond those, if any, required by or resulting from the NO<sub>x</sub> SIP Call and the Section 126 Rules. We have therefore concluded that today's proposed rule will relieve regulatory burden for all small entities affected by this rule. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, 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, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rules with "Federal mandates" that may result in the expenditure to State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 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. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or Tribal governments or the private sector. The EPA prepared a statement for the final NO<sub>x</sub> SIP Call that would be required by UMRA if its statutory provisions applied. Today's action does not create any additional requirements beyond those of the final NO<sub>x</sub> SIP Call, therefore, no further UMRA analysis is needed. This proposed rule stays the portion of the NO<sub>x</sub> SIP Call that would require the State of Georgia to implement NO<sub>x</sub> emissions controls requirements.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

This proposed rule does not have federalism implications. It will 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. Today's action does not impose an enforceable duty on these entities. This action proposes to stay the NO<sub>x</sub> SIP Call requirements as they relate to Georgia and therefore, imposes no additional burdens beyond those imposed by the final NO<sub>x</sub> SIP Call. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This proposed rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments, 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 in Executive Order 13175. Today's action does not significantly or uniquely affect the communities of Indian Tribal governments. The EPA stated in the final NO<sub>x</sub> SIP Call Rule that Executive Order 13084 did not apply because that final rule does not significantly or uniquely affect the communities of Indian Tribal governments or call on States to regulate NO<sub>x</sub> sources located on Tribal lands. The same is true of today's action. Thus, Executive Order 13175 does not apply to this rule.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045: "Protection of Children From Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have 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.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action does not impose requirements beyond those, if any, required by or resulting from the NO<sub>x</sub> SIP Call and Section 126 Rules.

The public is invited to submit or identify peer-reviewed studies and data, of which the Agency may not be aware, that assessed results of early life exposure to NO<sub>x</sub> (or ground-level ozone, of which NO<sub>x</sub> is a precursor).

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, 12(d) (15 U.S.C. 272 note) 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. This proposed rulemaking does not involve technical standards, therefore, EPA is not considering the use of any voluntary consensus standards.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

This action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16,

1994). For the final NO<sub>x</sub> SIP Call, 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 requirements of that rule. These findings were presented in the RIA for the NO<sub>x</sub> SIP Call. Today's action does not affect this analysis.

#### **List of Subjects**

##### *40 CFR Part 51*

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

##### *40 CFR Part 78*

Air pollution control, Nitrogen oxides, Ozone, Acid Rain Program, Trading budget, Compliance supplement pool.

##### *40 CFR Part 97*

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: February 15, 2005.

**Jeffrey R. Holmstead,**  
*Assistant Administrator for Air and Radiation.*

[FR Doc. 05-3450 Filed 2-28-05; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 62**

**[R01-OAR-2004-ME-0002b; A-1-FRL-7876-7]**

### **Approval and Promulgation of Air Quality Implementation Plans; Maine; Control of Total Reduced Sulfur From Kraft Pulp Mills**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve a revision to Maine's plan for controlling air pollution according to section 111(d) of the Clean Air Act (*i.e.*, a "111(d) plan"). This revision changes state regulations controlling the emission of total reduced sulfur ("TRS") from existing kraft paper mills by making April 17, 2007 the compliance date for brownstock washers. This action is being taken in accordance with section 111(d) of the Clean Air Act ("CAA").

**DATES:** Written comments must be received on or before March 31, 2005.

**ADDRESSES:** Comments may be mailed to Lucy Edmondson, Unit Manager, Air Permits, Toxics and Indoor Program Unit, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114-2023. Comments may also be submitted electronically, or through hand delivery/courier, please follow the detailed instructions (Part (I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section) described in the direct final rule which is located in the Rules Section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Ian D. Cohen, Air Permits, Toxics, and Indoor Air Programs Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAP), Boston, MA 02114-2023, [cohen.ian@epa.gov](mailto:cohen.ian@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules Section of this **Federal Register**, EPA is approving the State's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: February 10, 2005.

**Robert W. Varney,**  
*Regional Administrator, EPA New England.*  
[FR Doc. 05-3909 Filed 2-28-05; 8:45 am]

**BILLING CODE 6560-50-P**