PUBLICATIONS

Weight	Length		Width	
Maximum	Minimum	Maximum	Minimum	Maximum
1000 grams (35.3 oz.)	114 mm (4.44 in.)	458 mm (17.86 in.)	81 mm (3.16 in.)	324 mm (12.63 in.)

611.34 Postage Payment Method

Postage must be paid through an advance deposit account. Items must bear an authorized Global Direct—Mexico postal indicia. USPS domestic indicia must not be used.

611.35 Postage Statement

Mailers must complete PS Form 3659, Postage Statement—Global Direct—Mexico. A separate postage statement must be prepared for each individual mailing.

611.36 Preparation Requirements

Sorting requirements for all three categories of mail (letters, publications, direct mail) are identical. Items must be sequenced in ascending postal code order and prepared according to the separations listed in the Global Direct—Mexico sortation plan as in the service guide. Letter-size items must be presented in USPS letter trays. Flat-size items must be presented in bundles. Both letter trays and bundles must be placed on pallets. For specific sorting and labeling requirements for Global Direct—Mexico, instructions will be provided as part of the service agreement.

611.4 Ancillary Services

611.41 Global Direct Mailbox Service

This service provides for the return of Mexican business reply mail to a specific address in Mexico, then the Postal Service forwards items to the mailer in the United States. Detailed specifications for this service will be provided as part of the application process. The rate for this service is $0.40 per item returned.

611.42 Return of Undeliverable Mail

This service provides for the return of letter mail and publications that are undeliverable. Mailers using a Mexican indicia and Mexican return address may have undeliverable items returned to the United States in bulk. The sender must endorse items ''Return Requested'' and use the return address specified by the Postal Service. The rate for this service is $1.75 per pound or fraction of a pound for the total number of items returned at a single time.

611.5 Service Agreement

Before the first mailing, mailers must submit a completed PS Form 3681, Global Direct Service Agreement, 14 business days prior to their planned mailing date. Concurrent with the establishment of the agreement, instructions are issued to the designated post office of entry regarding the acceptance and verification of the prospective customer's mailpieces.

611.6 Advance Notification

Mailers interested in using Global Direct—Mexico service must complete PS Form 3682, Notification of Mailing, five business days prior to the planned mailing date. PS Form 3682 can be found in Publication 526, Global Direct Service Guide, or on the USPS Web site.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–23549 Filed 9–15–00; 8:45 am]

BILLING CODE 7710–12–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–6869–8]

RIN 2060–AJ37

Stay of the Eight-Hour Portion of the Findings of Significant Contribution and Rulemaking for Purposes of Reducing Interstate Ozone Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In today's action, EPA is amending a final rule it issued under section 110 of the Clean Air Act (CAA) related to interstate transport of pollutants. The EPA is staying its findings in the nitrogen oxides State Implementation Plan call (NO_X SIP call) related to the 8-hour ozone national ambient air quality standards (NAAQS).

In the final NO_X SIP call, EPA found that emissions of NO_X from 22 States and the District of Columbia (23 States) significantly contribute to downwind areas' nonattainment of the 1-hour ozone NAAQS. The EPA also separately found that NO_X emissions from the same 23 States significantly contribute to downwind nonattainment of the 8-hour ozone NAAQS.

Subsequently, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded the 8-hour ozone NAAQS. *American Trucking Associations, Inc.* v. *EPA,* 175 F.3d 1027 *on rehearing* 195 F.3d 4 (D.C. Cir. 1999). The EPA proposed to stay the 8-hour basis of the NO_X SIP call rule based on the uncertainty created by the D.C. Circuit's decision. Four parties commented on the proposed rule which was published on March 1, 2000 (65 FR 11024). No requests were made to hold a public hearing. After considering these comments, EPA has determined to finalize its proposed stay of the 8-hour basis of the NO_X SIP call rule.

DATES: The final rule is effective October 18, 2000.

ADDRESSES: Documents relevant to this action are available for inspection at the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–96–56, U.S. Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548 between 8:00 a.m. and 5:30 p.m., Monday though Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Questions concerning today's action should be addressed to Jan King, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC, 27711, telephone (919) 541–5665, e-mail at king.jan@epa.gov.

SUPPLEMENTARY INFORMATION:

Availability of Related Information

The official record for the NO_X SIP call rulemaking, as well as the public version of the record, has been established under docket number A–96–56 (including comments and data submitted electronically as described below). The EPA has added new sections to that docket for purposes of today's rulemaking. The public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business

information, is available for inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. In addition, the **Federal Register** rulemakings and associated documents are located at http://www.epa.gov/ttn/rto/.

Outline

I. Background

A. Findings Under Section 110 To Reduce Interstate Ozone Transport

On September 24, 1998 (63 FR 57356, October 27, 1998), EPA took final action requiring 22 States and the District of Columbia (23 States) to regulate emissions of nitrogen oxides (NO_X), one of the main precursors of ground-level ozone, on the basis that these emissions contribute to the transport of ozone across State boundaries in the eastern half of the United States. The EPA found that sources and emitting activities in the 23 States emit NO_X in amounts that significantly contribute to nonattainment of the 1-hour ozone NAAQS. Separately, EPA also determined that sources and emitting activities in the 23 States emit NO_X in amounts that significantly contribute to nonattainment of the 8-hour ozone NAAQS. The EPA also concluded that the level of NO_X reductions necessary to address the significant contribution for the 8-hour NAAQS was the same as for the 1-hour NAAQS. The EPA set forth requirements for each of the affected upwind States to submit SIP revisions prohibiting those amounts of NO_X emissions which significantly contribute to downwind nonattainment. To accomplish this goal, each State is required to submit a SIP, providing for NO_X reductions in amounts such that any remaining emissions would not exceed the level specified in EPA's SIP call regulations for that State in 2007.[1,2]

B. Court Decisions

1. 8-Hour NAAQS

The EPA promulgated the revised 8-hour ozone NAAQS in July 1997, and the NAAQS were challenged by a number of parties. On May 14, 1999, the D.C. Circuit issued an opinion questioning the constitutionality of the CAA authority to review and revise the NAAQS, as applied in EPA's revision to the ozone and particulate matter NAAQS. See *American Trucking Ass'ns* v. *EPA,* 175 F.3d 1027 (D.C. Cir. 1999).[3] The court also addressed other issues, including EPA's authority to implement a revised ozone standard. Based on the statutory provisions regarding classifications and attainment dates under sections 172(a) and 181(a), the court determined that, although the statute allowed EPA to promulgate a more stringent ozone NAAQS, the statute provided no authority for EPA to require States to comply with a more stringent ozone NAAQS.

The EPA and the Department of Justice sought rehearing on whether the CAA, as applied by EPA, violated the constitution and on whether the issue of EPA's implementation authority was appropriately before the court and, if so, whether the CAA prohibited EPA from implementing a more stringent ozone NAAQS.[4] On October 29, 1999, the three-judge panel that issued the initial decision granted in part and denied in part EPA's rehearing request with respect to whether EPA had authority to implement a more stringent ozone NAAQS. *American Trucking Association* v. *EPA,* 195 F.3d 4 (D.C. Cir. 1999). The three-judge panel, in a two-to-one decision, denied EPA's rehearing request on the constitutional issue; and the full court also denied EPA's request for rehearing on that issue.[5]

With respect to EPA's implementation authority, the panel modified its decision to find that EPA may implement a more stringent ozone NAAQS only in conformity with the planning provisions specific to ozone, located in subpart 2 of part D of title I of the CAA. Judge Tatel did not join in the majority opinion, but filed a separate concurring decision on the basis that he read the majority decision to allow EPA to implement the more stringent 8-hour NAAQS once an area had attained the 1-hour ozone NAAQS. 195 F.3d at 11.

The EPA filed a petition requesting the Supreme Court to review the D.C. Circuit's decision regarding the constitutional and implementation issues. The Supreme Court granted EPA's request on May 22, 2000.[6]

The litigation continues to create uncertainty with respect to when EPA may be able to move forward to fully implement the revised 8-hour NAAQS; thus, EPA continues to believe that it is imprudent to rely on the 8-hour NAAQS as an independent, alternative basis for the NO_X SIP call at this time. Instead, EPA believes the most prudent course—and one respectful of the Court's conclusions in *American Trucking*—is to stay the findings in the SIP call that emissions in certain States contribute significantly to nonattainment of the 8-hour ozone NAAQS in certain downwind States.[7] The effect of such a stay is described in section II, below.

2. Challenges to the NO_X SIP Call

Nine States and a variety of industry and industry and labor organizations challenged the NO_X SIP call rule. The State petitioners requested the court to stay the obligation under the SIP call

[1] [2] On March 2, 2000 (65 FR 11222), EPA issued technical corrections of the portion of the rule specifying the NO_X emissions levels that each State must project it will not exceed in 2007 (NO_X budget).

[3] The EPA promulgated revised particulate matter NAAQS in July 1997, and the challenges to the particulate matter NAAQS were heard and decided at the same time as the challenges to the ozone NAAQS.

[4] The EPA sought rehearing on one other issue, not relevant here.

[5] To grant rehearing, a majority of the judges sitting on the court need to vote in favor of rehearing. Of the eleven sitting judges, five voted in favor of rehearing, four voted against rehearing and two did not participate in the decision.

[6] The State and industry parties that had challenged the NAAQS separately requested the Supreme Court to review the issue of whether EPA is precluded from considering costs when promulgating NAAQS. The Supreme Court granted their request on May 30, 2000, and provided that it would consider this issue at the same time it considers the issues raised by EPA.

[7] The EPA's approach here is consistent with its administrative stay of a rule related to the NOx SIP call, commonly referred to as the ''Section 126 Rule'' (64 FR 28249, May 25, 1999). On June 24, 1999, EPA issued a 5-month interim final stay of that rule in part due to the uncertainty about the 8-hour ozone standards engendered by the *ATA* decision (64 FR 33956, June 24, 1999). The EPA simultaneously published a proposal to stay the 8-hour determinations indefinitely (64 FR 33962, June 24, 1999). The EPA issued a final rule staying the 8-hour determinations indefinitely on January 18, 2000, (65 FR 2674).

that States submit SIPs that regulated the necessary level of NO_X emissions by September 30, 1999. On May 25, 1999, the court granted the States' request, staying the SIP submission deadline pending further order of the court.[8] *Michigan* v. *EPA,* No. 98–1497 (D.C. Cir., May 25, 1999) (order granting stay in part).

In November 1999, EPA requested the court to stay its consideration of the petitioners' issues regarding the 8-hour basis for the NO_X SIP call based on the D.C. Circuit's decision regarding the 8-hour NAAQS, including the decision on rehearing, and the prospect of continued litigation regarding that NAAQS. The EPA provided that it planned to stay its finding in the NO_X SIP call related to the 8-hour ozone NAAQS. The court granted EPA's motion. *State of Michigan* v. *EPA,* 213 F.3d 663, 670–671 (D.C. Cir. 2000).

On March 3, 2000, the court issued a decision, largely upholding the NO_X SIP call rule with respect to the 1-hour ozone NAAQS. However, the court remanded a few issues to the Agency and vacated the rule as it applied to three States. The court did not address its pending stay of the SIP submission requirement.

More specifically, the court determined that EPA had not provided a sufficient opportunity for comment on two issues: (1) the definition of electric generating units as it relates to cogeneration units; and (2) the control level the Agency assumed for stationary internal combustion engines. *State of Michigan* v. *EPA* 213 F.3d at 691–93. On April 11 and 13, 2000, EPA informed the 19 States and the District of Columbia by letter of the Agency's calculation of the effect of this aspect of the decision on the emissions ''budget'' for each State.

With respect to Wisconsin, the court determined that EPA inappropriately included Wisconsin based on its contribution to 1-hour ozone nonattainment levels that were occurring over Lake Michigan. The Court held that the readings over the Lake could not be considered to ''contribute significantly to nonattainment in * * * any other State.'' *State of Michigan* v. *EPA,* 213 F.3d at 681. The court also vacated the rule as it applies to Georgia and Missouri under the 1-hour standard on the basis that EPA had not explained why it was appropriate to base the SIP call on emissions throughout each entire State when there was evidence indicating that emissions in certain parts of those States did not contribute significantly to downwind nonattainment for the 1-hour NAAQS. *State of Michigan* v. *EPA,* 213 F.3d 681–85.

The EPA is currently taking steps to issue proposed rules addressing the issues remanded or remanded and vacated by the court.

Subsequently, EPA requested the court to lift its stay of the requirement for States to submit SIPs. Many of the petitioners in the case filed motions for rehearing by the three-judge panel that issued the decision, as well as the full court. On June 22, 2000, the court granted, in part, EPA's motion to lift the stay of the SIP submission obligation. In its order, the court noted that at the time the stay was issued, States had 128 days remaining to submit their plans (the time between May 25, 1999 and September 30, 1999). The court provided that EPA should allow 128 days from the date of the court's order for States to submit their plans. Thus, under the court's order, SIPs are due October 30, 2000. In addition, both the panel and the full court denied the requests for rehearing.

II. Final Rule

The EPA is amending the final NO_X SIP call rule to stay its findings related to the 8-hour NAAQS. The EPA believes it should not continue implementation efforts under section 110 with respect to the 8-hour standard that could be construed as inconsistent with the court's ruling while these issues are being considered by the Supreme Court. Given this position, EPA believes that the Agency should not continue to move forward with findings under section 110 based on the 8-hour standard. Thus, EPA is staying indefinitely the findings of significant contribution based on the 8-hour standard, pending further developments in the NAAQS litigation. The requirements of the SIP call, including the findings of significant contribution by 19 States and the District of Columbia, and the necessary emissions reductions and related statewide budgets, as tempered by the court's remand of the internal combustion engine and EGU issues, are fully and independently supported by EPA's findings under the 1-hour NAAQS. Since the rule was based independently on the 1-hour NAAQS, a stay of the findings based on the 8-hour standards would have no effect on the required remedy for the 19 States and the District of Columbia. For these States, the effect of the stay would be that States would have no obligation during the pendency of the stay to regulate NO_X emissions under the SIP call rule for purposes of addressing downwind nonattainment of the 8-hour NAAQS. These 20 States would remain obligated to move forward to regulate emissions of NO_X for the purpose of addressing their contribution to downwind nonattainment of the 1-hour standard.

However, the court vacated the SIP call rule, based on EPA's findings for the 1-hour standard, for three States—Wisconsin, Georgia, and Missouri. The effect of EPA's stay of the findings under section 110 based on the 8-hour standard is to stay the requirement for these three States to submit any SIP in response to the SIP call.[9] Thus, these three States would have no obligation under the SIP call until such time as EPA either lifts the stay of the findings under section 110 based on the 8-hour standard or completes rulemaking in response to the court's vacatur and remand of the 1-hour basis of the SIP call rule and makes new findings under section 110 based on the 1-hour standard.

III. Response to Comments

Four commenters submitted comments on the March 2, 2000 proposal. The comments are summarized below along with EPA's responses.

Comment: Three commenters suggest that EPA deny and eliminate all findings and provisions based on the 8-hour standard in light of the court's decision in *ATA,* remanding that standard to EPA. One commenter also claims that EPA must adjust any emission reduction requirements to reflect only those needed to achieve the 1-hour standard. One of these commenters believes that EPA's proposal to stay the 8-hour basis of the SIP call rule is a ''second best'' approach.

Response: The court in *ATA* remanded, but did not vacate, the 8-hour standard. Because the 8-hour standard remains in effect, EPA does not believe that it is necessary for the Agency to vacate the 8-hour basis of the NO_X SIP call rule. Moreover, the Supreme Court has granted EPA's petition for certiorari and thus will be reviewing the D.C. Circuit's decision. Due to the uncertainty created by the pending litigation, regarding whether the 8-hour standard may be fully

[8] Although the State Petitioners requested the court to stay the submission obligation until April 27, 2000, the court stayed the submission requirement ''until further order.''

[9] Because the stay of the findings for the 8-hour standard stays any present obligation of these three States to submit a SIP in response to the SIP call, it also effectively stays with respect to these three States the applicability of the revised NO_X budgets established in the March 2, 2000 rule.

implemented, EPA believes it is appropriate to stay the 8-hour basis for the SIP call rule, such that States and sources are not required to move forward with implementing control measures designed solely to attain the 8-hour NAAQS at this time. However, it is premature to presume that implementation of the 8-hour standard will not move forward in the future. Thus, EPA believes the best approach at this time is to stay, but not withdraw, the 8-hour basis of the SIP call rule.

With respect to the claim that EPA needs to adjust the emission budgets to reflect only those emissions reductions needed to achieve the 1-hour NAAQS, EPA notes that no adjustments due to staying the findings for the 8-hour NAAQS are necessary. The EPA assessed each State's contribution for the 1-hour NAAQS independent of its assessment of the State's contribution for the 8-hour NAAQS. *See* 62 FR 60,326 (Nov. 7, 1997); 63 FR 57,377, and 57,395 (Oct. 27, 1998). However, EPA ultimately determined that the ''significant contribution'' of emissions that each State needed to address was the same regardless of whether the reductions were needed for the 1-hour standard or the 8-hour standard. Therefore, EPA promulgated only one emissions budget relevant for each State.

In addition, EPA notes that the budgets were not for the purpose of ensuring attainment of either NAAQS in downwind States. Rather, the budgets were for the purpose of addressing each upwind State's significant contribution to nonattainment in downwind areas. As EPA noted in the final SIP call rule, all of the downwind, 1-hour nonattainment areas (and many of the downwind areas violating the 8-hour standard) generally were expected to need additional local emissions reductions beyond those required by the SIP call to reach attainment of the respective NAAQS. Because EPA's analysis focused on addressing the emissions that significantly contribute to a downwind area's nonattainment problem (as provided under section 110(a)(2)(D)), rather than addressing the level of emissions reductions that would bring a downwind area into attainment for a particular standard, it is not unexpected that the budget levels would be the same for the 1-hour and 8-hour standards.

Comment: One commenter recommends that EPA stay the NO_X SIP call rule in all respects until such time as there is a final, non-appealable resolution of the litigation on the SIP call rule, and that EPA go through notice-and-comment rulemaking to lift the stay after the litigation is complete. Another commenter suggests that EPA stay the NO_X SIP call rule until both the SIP call litigation and the *ATA* litigation are finally resolved. The commenter expresses concern over EPA's efforts to implement the NO_X SIP call rule and EPA's rule under section 126 of the CAA (directly regulating sources of NO_X) while litigation is still pending on those cases and on the technical amendments regarding budget corrections. The commenter suggests that the pending litigation makes it virtually impossible for sources to plan for compliance.

Response: This rulemaking concerns a limited issue—whether EPA should stay the 8-hour basis of the NO_X SIP call rule in light of the court's decision in *ATA* remanding that standard. That decision, in no way, calls into question the 1-hour NAAQS and the need for States to develop SIPs to address that standard. Thus, the pending *ATA* litigation does not justify a stay of the findings under section 110 based on the 1-hour standard. Moreover, on June 22, 2000, the D. C. Circuit lifted its stay of the requirement for States to submit SIPs in accordance with the SIP call rule and has denied the requests for rehearing of its decision in the SIP call litigation. While parties may seek further review of that decision in the Supreme Court and the challenges to the technical corrections are pending, EPA notes that the mere fact that litigation is pending regarding an Agency action does not warrant a stay of the challenged regulation. As a general matter, regulations remain in effect pending litigation.

Comment: One commenter expressed support for EPA's proposal to stay the 8-hour basis for the NO_X SIP call rule. The commenter also stated that reliance on the 8-hour NAAQS prior to designation of areas for that standard was premature.

Response: The EPA is taking final action as proposed and as supported by the commenter. In the final SIP call rule, EPA disagreed with the commenter's position that EPA may not require States to address interstate transport for a NAAQS prior to the time EPA designates areas for that standard. That issue was raised in the SIP call litigation and the court has stayed its consideration of the issue based on EPA's decision to stay the 8-hour basis of the SIP call rule. That issue has not influenced EPA's decision to stay the 8-hour basis for the SIP call rule and could be considered by the court if and when EPA lifts its stay.

Comment: One commenter claims that EPA ''obfuscates the interdependence of the 1-hour and 8-hour bases for the NO_X SIP call and Section 126 rules'' by claiming that the findings for each standard were ''separate.'' The commenter believes that EPA's basis for both the SIP call rule and the section 126 rule is the 8-hour NAAQS. The commenter notes that the EPA-calculated emissions reductions from baselines in the NO_X SIP call rule assume achievement of the 8-hour NAAQS. Two commenters are concerned that the stay has no effect since sources will need to implement all remaining portions of the rule.

Response: In the final SIP call rule, EPA clearly stated that it independently assessed significant contribution for the 1-hour and 8-hour ozone NAAQS. *See* 62 FR 60,326; 63 FR 57,377, and 57,395. In requesting the court to stay the limited issues raised exclusively regarding the 8-hour basis for the SIP call, EPA also clearly articulated that the 8-hour and 1-hour bases were wholly independent of each other and that ''the emission reductions that must be achieved, and the requirement for States to submit SIPs meeting NO_X budgets are fully and independently supported by EPA's findings under the 1-hour NAAQS alone.'' Motion for Stay of Judicial Consideration of Certain Issues Raised In Petitioners' Briefs at 3, *Michigan* v. *EPA,* (No. 98–1497, D.C. Cir.) Nov. 19, 1999. The court granted EPA's request to stay consideration of the 8-hour basis for the SIP call and upheld in most significant respects the 1-hour basis for the SIP call. No party has sought rehearing on the grounds that the 1-hour standard alone cannot support the SIP call rule.

The EPA agrees with the commenters that the stay of the 8-hour basis of the rule will have no effect on the emissions budget for those 19 States and D.C. that are still covered by the NO_X SIP call based on the 1-hour standard. As provided above, EPA determined that the level of reductions needed to address significant contribution for the 1-hour NAAQS is the same as the level needed to address the 8-hour NAAQS and thus the budgets are the same.[10]

[10] The EPA notes that in reviewing the SIP call, as based on the 1-hour standard, the court remanded two issues to EPA that may affect the ultimate budget numbers for each State: (1) the definition of electric generating units as it relates to cogeneration units; and (2) the control level the Agency assumed for stationary internal combustion engines. Although the court only remanded, and did not vacate, the portions of the budgets based on EPA's analysis of these two issues, EPA has informed the 20 States that remain subject to the SIP call, as based on the 1-hour standard, that their initial SIPs in response to the SIP call need not account for the portion of the budget represented by emissions from these two source categories. The EPA is currently developing a proposed rule to

Thus, the stay has no practical effect on the SIP that these 19 States and D.C. will need to submit to address the SIP call.

Comment: One commenter claims that EPA should provide in the final rule, as it did in its similar stay of the 8-hour basis of the section 126 rule, that EPA would lift the stay of the 8-hour basis of the SIP call rule only through notice-and-comment rulemaking.

Response: The EPA agrees that it would need to lift the stay through rulemaking. In that rulemaking, EPA also would consider whether to modify the findings based on the 8-hour standard in light of the court's decision with respect to the findings for the 1-hour standard.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order 12866, (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget (OMB) because this action is simply staying its finding in the NO_X SIP call related to the 8-hour ozone standards. The final NO_X SIP call was submitted to OMB for review. The EPA prepared a regulatory impact analysis (RIA) for the final NO_X SIP call titled ''Regulatory Impact Analysis for the NO_X SIP Call, FIP, and Section 126 Petitions.'' The RIA and any written comments from OMB to EPA and any written EPA responses to those comments are included in the docket. The docket is available for public inspection at the EPA's Air Docket Section, which is listed in the **ADDRESSES** section of this preamble. This action does not create any additional impacts beyond what was promulgated in the final NO_X SIP call, therefore, no additional RIA is needed.

B. Unfunded Mandates Reform Act

This action also does not impose any additional enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). The EPA prepared a statement for the final NO_X SIP call rule that would be required by UMRA if its statutory provisions applied and consulted with governmental entities as would be required by UMRA. Because today's action does not create any additional mandates, no further UMRA analysis is needed.

C. 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.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This action 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. This action stays EPA's findings in the NO_X SIP call rule related to the 8-hour ozone NAAQS and imposes no additional burdens beyond those imposed by the final NO_X SIP call rule. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. 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 OMB, 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 action does not significantly or uniquely affect the communities of Indian tribal governments. The EPA stated in the final NO_X SIP call rule that Executive Order 13084 did not apply because the final rule does not significantly or uniquely affect the communities of Indian tribal governments or 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.

E. Executive Order 12898: Environmental Justice

In addition, 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_X 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 the rule. These findings are presented in the RIA.

F. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure 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,

address the remanded issues for purposes of the 1-hour standard. Although the court's decision on these two issues, as well as the court's vacatur of the rule as it applies to Wisconsin, Georgia, and Missouri, was only for purposes of the 1-hour standard, EPA plans to consider the effect of the court's reasoning on the 8-hour basis for the SIP call at the same time that EPA undertakes any rulemaking to lift the stay of the 8-hour basis of the SIP call.

small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's 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 final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

This action will not impose any requirements on small entities. This action stays EPA's findings in the NO_X SIP call rule related to the 8-hour ozone NAAQS and does not itself establish requirements applicable to small entities.

G. Executive Order 13045: Protection of Children from Environmental Health Risks 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.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because this action is not ''economically significant'' as defined under Executive Order 12866 and the Agency does not have reason to believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children.

H. National Technology Transfer and Advancement Act

In addition, the National Technology Transfer and Advancement Act of 1997 does not apply because today's action does not require the public to perform activities conducive to the use of voluntary consensus standards under that Act. The EPA's compliance with these statutes and Executive Orders for the underlying rule, the final NO_X SIP call, is discussed in more detail in 63 FR 57477–57481 (October 27, 1998).

I. Paperwork Reduction Act

The EPA stated in the final NO_X SIP call that an information collection request was pending. Today's action imposes no additional burdens beyond those imposed by the final NO_X SIP call. Any issues relevant to satisfaction of the requirements of the Paperwork Reduction Act will be resolved during review and approval of the pending information collection request for the NO_X SIP call.

J. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of 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.''

Any final action related to the NO_X SIP call is ''nationally applicable'' within the meaning of section 307(b)(1). As an initial matter, through this rule, EPA interprets section 110 of the CAA in a way that could affect future actions regulating the transport of pollutants. In addition, the NO_X SIP call requires 22 States and the District of Columbia to decrease emissions of NO_X. The NO_X SIP call also is based on a common core of factual findings and analyses concerning the transport of ozone and its precursors between the different States subject to the NO_X SIP call. Finally, EPA has established uniform approvability criteria that would be applied to all States subject to the NO_X SIP call. For these reasons, the Administrator has also determined that any final action regarding the NO_X SIP call is of nationwide scope and effect for purposes of section 307(b)(1). 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**. 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). This rule will be effective October 18, 2000.

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 8, 2000.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations 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. 7401–7671q.

Subpart G—Control Strategy

2. Section 51.121 is amended by adding paragraph (q) to read as follows:

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

* * * * *

(q) *Stay of Findings of Significant Contribution with respect to the 8-hour standard.* Notwithstanding any other provisions of this subpart, the effectiveness of paragraph (a)(2) of this section is stayed.

[FR Doc. 00–23947 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 210–0247a; FRL–6850–1]

Revisions to the California State Implementation Plan, San Diego County Air Pollution Control District and Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the San Diego County Air Pollution Control District (SDCAPCD) and Bay Area Air Quality Management District (BAAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the wood products coating and the metal container, closure, and coil coating source categories. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on November 17, 2000 without further notice, unless EPA receives adverse comments by October 18, 2000. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460;

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812;

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123; and,

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1226.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SDCAPCD	67.11	Wood Products Coating Operations	08/13/97	05/18/98
BAAQMD	8–11	Metal Container, Metal Closure, and Metal Coil Coating	11/19/97	03/28/00

EPA found these rule submittals to meet the completeness criteria in 40 CFR part 51, appendix V on the following dates: July 17, 1998 for SDCAPCD Rule 67.11; and, May 19, 2000 for BAAQMD Rule 8–11. EPA must find a submittal to be complete before we begin our formal review.

B. Are There Other Versions of These Rules?

There are no previous versions of SDCAPCD Rule 67.11 in the California SIP. Although the SDCAPCD adopted earlier versions of this rule, these versions were submitted to EPA and later withdrawn by CARB. In contrast, EPA approved a version of BAAQMD Rule 8–11 into the SIP on December 23, 1997.

C. What Is the Purpose of the Submitted Rules or Rule Revisions?

SDCAPCD Rule 67.11, Wood Products Coating Operations, is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites preparing and coating wood products such as furniture, cabinets, shutters, and frames. Rule 67.11 establishes VOC emission limits in grams of VOC per litre (gr/l) of coating. It also allows using of add-on emission control devices. The rule also contains provisions for record keeping, appropriate test methods, and exemptions. Rule 67.11 reduces VOC emissions by requiring the following actions: low VOC coatings use or use of pollution control equipment; proper storage, clean-up, handling, and disposal of VOC containing material; and, emission limits on the use of strippers on wood products.

BAAQMD Rule 8–11, Metal Container, Closure, and Coil Coatings, reduces VOC emissions at industrial sites coating metal coils, cans, drums, pails, and lids. VOCs are emitted during the preparation, coating, and drying of these metal components. Rule 8–11 establishes VOC emission limits per liter of coating and also allows for using of add-on emission control devices.

BAAQMD's August 17, 1997 amendments to Rule 8–11 made several changes to the existing rule by adding new VOC content limits for the following coating categories upon adoption in 1997:

—Interior body spray coatings for two and three piece cans;

—Interior and exterior body spray coatings applied to new drums;

—End sealing compound used on non-food and beverage cans and non-food drums;

—End sealing compound used on food cans; and,

—End sealing compound used on food drums.

Most of these coating categories had their VOC content limits lowered in January 1998 and January 2000. The remaining VOC content limits, end sealing compound used on food cans and food drums, will be lowered in January 2002.

The TSD has more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). Both the SDCAPCD and the BAAQMD regulate an ozone nonattainment