

benefit, the drug or medicine will be provided at the same co-pay as a formulary pharmaceutical agent can be obtained.

(ii) A clinical necessity for use of a non-formulary drug is established when the beneficiary or their provider submits sufficient information to show that one or more of the following conditions exist:

(A) The use of formulary agents is contraindicated;

(B) The patient experiences significant adverse effects from formulary agents;

(C) Formulary agents result in therapeutic failure;

(D) The patient previously responded to a non-formulary agent and changing to a formulary agent would incur unacceptable clinical risk; or

(E) There is no alternative agent on the formulary.

(iii) Information to establish clinical necessity for use of a non-formulary pharmaceutical agent should be provided to TRICARE for prescriptions submitted to a retail network pharmacy.

(iv) Information to establish clinical necessity for use of a non-formulary pharmaceutical agent should be provided as part of the claims processes for non-formulary pharmaceuticals obtained through non-network points of service, claims as a result of other health insurance, or any other situations requiring the submission of a manual claim.

(v) Information to establish clinical necessity for use of a non-formulary pharmaceutical agent may be provided with the prescription submitted to the NMOP.

(vi) Information to establish clinical necessity for use of a non-formulary pharmaceutical agent may also be provided at a later date as an appeal to reduce the non-formulary co-pay to the same co-pay as a formulary drug.

(vii) The process of establishing clinical necessity will not unnecessarily delay the dispensing of a prescription. In situations where clinical necessity can not be determined in a timely manner, the non-formulary pharmaceutical will be dispensed at the non-formulary co-pay and a refund provided to the beneficiary should clinical necessity be established.

(i) *Use of generic drugs under the Pharmacy Benefits Program.* (1) The designation of a drug as a generic, for the purpose of applying cost-shares at the generic rate, will be determined through the use of standard pharmaceutical references as part of commercial best business practices. Drugs will be designated as generics when listed with an "A" rating in the

current Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book) published by the Food and Drug Administration, or any successor to such reference. Generics are multisource products that must contain the same active ingredients, are of the same dosage form, route of administration and are identical in strength or concentration.

(2) The Pharmacy Benefits Program generally requires mandatory substitution of generic drugs when available. Brand name drugs will be available at the non-formulary co-pay when dispensed in lieu of a generic equivalent if selection of the branded product is based solely on the personal preference of the provider or beneficiary. In cases in which there is a clinical justification for a brand name drug in lieu of a generic equivalent, under the standards and procedures of paragraph (h)(3) of this section, the generic substitution policy is waived.

(3) When a blanket purchase agreement, incentive price agreement, or other Government contract action results in a brand pharmaceutical agent being the most cost effective agent for purchase by the Government, the Pharmacy and Therapeutics Committee may also designate that the drug be cost-shared at the generic rate.

(j) *Preauthorization of certain pharmaceutical agents.* Selected pharmaceutical agents may be subject to prior authorization or utilization review requirements to assure medical necessity, clinical appropriateness and/or cost effectiveness. The Pharmacy and Therapeutics Committee will assess the need to prior authorize a given agent by considering the relative clinical and cost effectiveness of agents within a therapeutic class. Agents that require prior authorization will be identified by a majority vote of the Pharmacy and Therapeutics Committee. The Pharmacy and Therapeutics Committee will establish the prior authorization criteria for the agent.

(k) *TRICARE Senior Pharmacy Program.* Section 711 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398, 114 Stat. 1654A-175) established the TRICARE Senior Pharmacy Program for Medicare eligible beneficiaries effective April 1, 2001. These beneficiaries are required to meet the eligibility criteria as prescribed in § 199.3. The benefit under the TRICARE Senior Pharmacy Program applies to prescription drugs and medicines provided on or after April 1, 2001.

(l) *Effect of other health insurance.* The double coverage rules of § 199.8 are applicable to services provided under

the Pharmacy Benefits Program. For this purpose, to the extent they provide a prescription drug benefit, Medicare supplemental insurance plans or Medicare HMO plans are double coverage plans and will be the primary payor.

(m) *Procedures.* The Director, TRICARE Management Activity shall establish procedures for the effective operation of the Pharmacy Benefits Program. Such procedures may include restrictions of the quantity of pharmaceuticals to be included under the benefit, encouragement of the use of generic drugs, implementation of quality assurance and utilization management activities, and other appropriate matters.

Dated: April 4, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02-8615 Filed 4-11-02; 8:45 am]

BILLING CODE 5001-08-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 96, and 97

[FRL-7170-9]

Interstate Ozone Transport: Response to Court Decisions on the NO_x SIP Call, NO_x SIP Call Technical Amendments, and Section 126 Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: Today, EPA is extending the closing date of the public comment period regarding EPA's notice of proposed rulemaking "Interstate Ozone Transport: Response to Court Decisions on the NO_x SIP Call, NO_x SIP Call Technical Amendments, and Section 126 Rules," published February 22, 2002 at 67 FR 8395. The original comment period was to close on April 15, 2002. The new closing date will be April 29, 2002. The EPA received a request to extend the comment period due to the complexity of the issues surrounding the actions EPA is proposing to take. We find it appropriate to provide additional time for interested and affected parties to submit comments. All comments received by EPA on or prior to April 29, 2002 will be considered in the development of a final rule.

DATES: All comments regarding EPA's notice of proposed rulemaking issued on February 22, 2002 must be

postmarked, faxed, or e-mailed to EPA on or before close of business April 29, 2002 instead of April 15, 2002.

ADDRESSES: Comments (in duplicate if possible) may be submitted to the Office of Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-96-56, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, telephone (202) 260-7548, fax (202) 260-4400, and e-mail *A-and-R-docket@epa.gov*. We encourage electronic submissions of comments and data following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information should be submitted through e-mail.

Documents relevant to this action, including the proposed notice, are available for inspection at the U.S. Environmental Protection Agency, 401 M Street, SW, Waterside Mall, Room M-1500, Washington, DC 20460, between 8 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

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*.

SUPPLEMENTARY INFORMATION: The proposed rule (67 FR 8395) addresses the issues remanded or vacated for notice-and-comment rulemaking by the D.C. Circuit in *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000), *cert. denied*, 121 S. Ct. 1225, 149 L. ED. 135 (2001), which concerned the NO_x SIP Call (the "SIP call case"); *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001), which concerned the technical amendments rulemakings for the NO_x SIP Call (the "Technical Amendments case"); and *Appalachian Power v. EPA*, 249 F.3d 1042 (D.C. Cir. 2001) and *Appalachian Power v. EPA*, No.99-1200, Order (D.C. Cir., August 24, 2001), which concerned the section 126 rulemaking (the "Section 126 case").

In the proposed rule, EPA proposed to:

(1) Retain the definition of EGUs as it relates to cogeneration units in the NO_x SIP Call and in the Section 126 Rule, and retain the definition of EGUs as it relates to cogeneration units in the NO_x SIP Call with only minor revisions to make the definition consistent with the Section 126 Rule;

(2) revise the control levels for stationary internal combustion engines that were assumed in calculating NO_x SIP call budgets for each State;

(3) exclude portions of Georgia, Missouri, Alabama and Michigan from the NO_x SIP Call (the court ruling focused on Georgia and Missouri, but the same issue is relevant to Alabama and Michigan);

(4) revise statewide emissions budgets in the NO_x SIP Call to reflect the disposition of the first three issues above;

(5) set a range of dates for 19 States and the District of Columbia to submit State implementation plans to achieve the emissions reductions required by this second phase of the NO_x SIP Call, and for Georgia and Missouri to submit SIPs meeting the full NO_x SIP Call: 6 months through 1 year from final promulgation of this rulemaking but no later than April 1, 2003;

(6) set a compliance date of May 31, 2004, for all sources except those in Georgia and Missouri; and sources in those two States would have a May 1, 2005 compliance date; and

(7) exclude Wisconsin from NO_x SIP Call requirements at this time.

The comment period provided in the proposed rule was to close on April 15, 2002. Today's action extends the date by which the comment period closes to April 29, 2002.

Dated: April 5, 2002.

Robert Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 02-8929 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[NV 021-0049b; FRL-7167-4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the maintenance plan for the Steptoe Valley Central area in Nevada and grant the request submitted by the State to redesignate this area from nonattainment to attainment for the National Ambient Air Quality Standards for sulfur dioxide (SO₂).

DATES: Comments on this proposal must be received by May 13, 2002.

ADDRESSES: Please address your comments to the following EPA contact. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR-2), 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the SIP materials are also available for inspection at the address listed below:

Nevada Division of Environmental Protection, 333 W. Nye Lane, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT:

Valerie Cooper, Grants and Program Integration Office (AIR-8), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901. Telephone: (415) 947-4103. E-mail: *Cooper.Valerie@epa.gov*

SUPPLEMENTARY INFORMATION:

In the Rules and Regulations section of this **Federal Register**, we are approving the maintenance plan for the Steptoe Valley—Central SO₂ nonattainment area. We are also approving the State of Nevada's request to redesignate the Steptoe Valley area from nonattainment to attainment for the primary SO₂ NAAQS. We are taking these actions without prior proposal because we believe that the revision and request are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 24, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 02-8290 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL-7170-4]

Outer Continental Shelf Air Regulations; Consistency Update for California

AGENCY: Environmental Protection Agency ("EPA").