

(vi) *Other rules*—(A) For purposes of the registration requirements under section 6111(d)(3), it is presumed that the tax shelter promoters will receive fees in excess of \$100,000 in the aggregate unless the person responsible for registering the tax shelter can show otherwise.

(B) Any person treated as a tax shelter promoter under section 6111(d) solely by reason of being related (within the meaning of section 267 or 707) to a foreign promoter will be treated as a foreign promoter for purposes of this paragraph (g)(2).

(h) *Effective date.* This section applies to confidential corporate tax shelters in which any interests are offered for sale after February 28, 2000. If an interest is sold after February 28, 2000, it is treated as offered for sale after February 28, 2000 unless the sale was pursuant to a written binding contract entered into on or before February 28, 2000.

Par. 3. In § 602.101, paragraph (b) is amended by adding an entry for § 301.6111-2T to read as follows:

§ 602.101 OMB Control numbers.

* * * * *
(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	* * * * *
301.6111-2T	1545-0865 1545-1687
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Charles O. Rossotti,
Commissioner of Internal Revenue.

Approved: February 23, 2000.

Jonathan Talisman,
Acting Assistant Secretary of the Treasury.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL-6542-9]

RIN 2060-AH10

Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: The EPA is revising the nitrogen oxides (NO_x) statewide emissions budgets for the 22 States and the District of Columbia which are required to submit State implementation plan (SIP) revisions to address the regional transport of ozone (also referred to as the NO_x SIP call) (63 FR 57356, October 27, 1998). These revisions are mainly based on comments received for emissions inventory revisions to 2007 baseline information used to establish each State's budget during the comment periods for both the NO_x SIP call and the "Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone" which was published on May 14, 1999. Some revisions were made based on comments received after the comment periods but deemed to be technically justified.

EFFECTIVE DATE: This rule is effective April 3, 2000.

ADDRESSES: Dockets containing information relating to this rulemaking (Docket Nos. A-96-56, A-97-43, and A-98-12) are available for public inspection at the Office of Air and Radiation Docket and Information Center (6102), U.S. Environmental Protection Agency, 401 M St., SW, Room M-1500, Washington, DC 20460, telephone (202) 260-7548, between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Docket materials may be sent by electronic mail to A-and-R-Docket@epa.gov. Documents related to this notice are available on EPA's website at <http://www.epa.gov/ttn/oarpg/otagsip.html>, and <http://www.epa.gov/ttn/rto/>.

FOR FURTHER INFORMATION CONTACT: General questions concerning today's technical amendment 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: king.jan@epa.gov. Specific questions on the revised NO_x emissions budgets should be directed to Gregory Stella, Office of Air Quality Planning and Standards, Emissions Monitoring and Analysis Division, MD-14, Research Triangle Park, NC 27711, telephone (919) 541-3649; e-mail: stella.greg@epa.gov. Specific questions on the electric generating unit (EGU) sector should be directed to Kevin

Culligan, Office of Atmospheric Programs, Clean Air Markets Division, 401 M Street SW, 6204J, Washington, D.C., 20460, telephone (202) 564-9172; e-mail: culligan.kevin@epa.gov.

SUPPLEMENTARY INFORMATION: By notice dated October 27, 1998, EPA published the final NO_x SIP call. The final NO_x SIP call provided the opportunity for comments on 2007 baseline sub-inventory revisions. If data submitted by commenters were determined to be technically justified, the State baseline inventory and budgets for the NO_x SIP call would be revised to include the new data. In response to the comments received during this comment period, revised baseline inventories and budgets were published in the May 14, 1999 technical amendment (64 FR 26298).

The EPA is proceeding to final action now on a second technical amendment based on further comments received from the public in response to the SIP call and the request for comments on inventory revisions as well as the May 14, 1999 technical amendment. The final NO_x SIP call required that the SIPs be submitted by September 30, 1999 and the controls be implemented by May 1, 2003. On May 25, 1999, the courts granted a stay on the SIP submittal date of September 30, 1999. However, we are moving forward with these corrections because some States are voluntarily submitting SIPs as soon as they can incorporate the new emissions inventory and statewide budget numbers. Also, today's changes are necessary to make the NO_x SIP Call inventory consistent with the inventory adopted when EPA granted Section 126 petitions on December 17, 1999. The NO_x SIP Call and the Section 126 petitions are to be based on the same inventory. To the extent relevant, the corrections contained in today's action have already been incorporated in the section 126 inventory.

To the extent the Administrative Procedure Act might require publication of an additional notice of proposed rulemaking for this action, EPA finds good cause to dispense with such a proposal. The EPA finds it would be contrary to the public interest, because a number of States are proceeding with revisions to their SIPs that are dependent upon finalization of these inventories. Any delay in finalizing these inventories would require States to delay submitting their SIP revisions and therefore could delay emissions reductions that would be realized as a result of these SIP revisions. Furthermore, EPA has already provided a sufficient opportunity for public comment on the inventory issues (5

U.S.C. 553(b)(B)) through the prior comment period on the SIP call and the first technical amendment.

I. Changes to the Inventory

Subsequent to the publication of the May 14, 1999 technical amendment revising the emission budgets for the NO_x SIP call, a number of commenters raised concerns about EPA's interpretation of their comments. In addition, new information was also submitted by commenters after May 14, 1999. Further, EPA conducted a thorough review of all the comments received regarding the May 14 technical amendment. This was done in an attempt to identify other mistakes made in incorporating the revision requests. The Agency modified the base inventories and budget calculations in areas where these reviews uncovered incorporation errors or where new data was found to be technically valid.

As part of the above review, EPA became aware of an error common to many stationary reciprocating internal combustion (IC) engines in several States. The error generally occurred because the permits issued to the sources used only one point and stack identification number for each of several engines located at one site; *i.e.*, individual engines at one site that were permitted together received the same identification number. Then, in calculating the total emissions from that source, the inventory resulted in identifying the source incorrectly as a large source instead of several small sources with separate emission points.

In some cases, this common error was noted by individual companies during the original comment period for the NO_x SIP call. In the process of making the corrections described above, EPA also made minor corrections to the IC engine inventory based on further discussions with the industry and where concurrence of the relevant State agency was obtained.

In addition, on August 9, 1999, (64 FR 43124) EPA issued a Notice of Data Availability seeking comment on heat input and electrical output data that could be used to allocate NO_x allowances under a Federal NO_x Budget Trading Program. EPA received a number of comments on that Notice that have also led to review of earlier comments submitted by those commenters. In some cases this review has led to changes in the electricity generating unit (EGU) and non-electricity generating unit (non-EGU) portions of the budget.

II. Changes to Statewide Sub-Inventories Sector NO_x Emissions Budgets

Changes to the Statewide NO_x emissions budgets made in this technical amendment are mainly in response to the comments submitted during prior comment periods for the NO_x SIP call and the May 14, 1999 technical amendment. Each of the sub-inventories sectors of electricity generating unit (EGU), non-electricity generating unit (non-EGU) point, area, nonroad mobile, and highway mobile were commented on and affected to some extent by this EPA action. The changes made in each sub-inventory sector are further described below. The total emissions budget for all of the sub-inventories sectors decreased less than 1 percent from the May 14, 1999 technical amendment to this action.

As a result of these revisions, EPA anticipates that full implementation of the NO_x SIP call will reduce total NO_x emissions by 1.111 million tons in the 2007 ozone season. This is a slight decrease from the 1.157 million tons in total NO_x reductions identified in the final NO_x SIP call. The total overall percent reduction decreased slightly from 28 percent to 25 percent as a result of the smaller amount of emissions reductions and an increase in the emissions inventory baseline. Even though there was a slight increase in the overall NO_x emissions inventory, EPA expects that the impact on air quality benefits and cost effectiveness would be small because the emissions changes are minor.

The EGU source budgets increased by less than 1 percent from the final SIP call. A number of EGU point source units were reclassified to the non-EGU source sector and some non-EGU sources were reclassified to the EGU source sector. Further, in response to comments, the EGU budget also adds previously unidentified EGUs. Overall, the emissions reductions from this sector are similar to the emissions reductions of the final NO_x SIP call.

On September 15, 1999, EPA took a direct final rulemaking (64 FR 49987) action modifying the EGU portions of the budget for the States of Connecticut, Massachusetts and Rhode Island. On November 1, 1999, after receiving adverse comment, EPA withdrew that final action (64 FR 58792).

Therefore, today's action does not include the modifications to the budgets for those three States that were finalized on September 15, 1999. EPA is reviewing the comments received on that action and intends to address them in a future rulemaking action. As explained in the September 15, 1999

action, such an action would be a redistribution of the budget among the three States and would have no effect on the budget or compliance supplement pool for any other states.

The non-EGU source budgets increased by 13 percent from the final NO_x SIP call for several reasons. First, many sources were reclassified from large non-EGUs to small non-EGUs, thereby removing them from the category of non-EGU sources requiring budget level controls (*i.e.*, 30 percent reduction from large cement kilns, 60 percent reduction from large industrial boilers and large gas turbines, and 90 percent reduction from large IC engines). Second, some non-EGU units for which EPA assumed controls were reclassified to categories for which controls were not assumed; this reclassification results in excluding them from budget level controls (*e.g.*, large industrial boiler reclassified as a glass manufacturer). Many State and local agencies submitted revised non-EGU point source inventories which replaced their final NO_x SIP call inventory for non-EGUs. A number of non-EGU point source units were reclassified to the EGU source sector and a number of EGU sources were reclassified to the non-EGU source sector. The result of all of these reclassifications is that fewer non-EGUs would be subject to EPA's assumed control strategy. Finally, corrections to the growth rates of many non-EGU sources were made to reflect the growth misapplied in the May 14, 1999 version of the budget. Because the 2007 base budget increased, but the total number of units that would be subject to controls under EPA's assumed control strategy decreased, these changes lower the amount of emissions expected to be reduced by the NO_x SIP call by 44,072 tons.

Changes in the stationary area source budgets resulted in an increase of 10 percent from the final NO_x SIP call to that portion of the budget. Some State and local agencies submitted revised stationary area source inventories to replace their final NO_x SIP call inventory. In addition, EPA is applying a more consistent method for calculating ozone season emissions based on typical ozone season daily emissions. To retain consistency in State ozone season estimation methods, EPA is estimating seasonal emissions budgets by multiplying the typical ozone season day emission value by the number of days (153) in the ozone season. Since EPA does not apply any controls to this source sector in calculating the reductions for the final NO_x SIP call, there is no expected effect

on the overall reduction due to these changes.

Changes in the nonroad mobile source budget resulted in an overall increase of 15 percent to the nonroad mobile source budget from the nonroad source budget in the final NO_x SIP call. The EPA applied the same ozone season estimation methods change described above for stationary area sources to the nonroad mobile source budget. Several State and local agencies provided emissions growth and control data for use in estimating the nonroad sector of the budgets. Since EPA did not apply any controls to this source sector in calculating the reductions for the final NO_x SIP call, there is no expected effect on the overall reduction due to these changes.

Changes in the highway mobile source sector resulted in a 10 percent increase to the highway mobile source budget from the final NO_x SIP call budget. Differences in the highway sector of the State emissions budgets are in response to State and local agency comments on vehicle miles traveled (VMT), VMT growth, vehicle mix throughout the State, State-to-county level VMT allocations, speed changes by vehicle and roadway type, and inspection and maintenance program application, as well as EPA's inclusion of excess NO_x emissions from the use of "defeat devices" on highway heavy-duty diesel engines. This latter effect is discussed more fully in the following section. Since EPA did not apply any controls to this source sector in calculating the reductions for the final NO_x SIP call, there is no expected effect on the overall reduction due to these changes.

Neither overall size of the compliance supplement pool, nor the methodology for distributing the compliance supplement pool has changed as a result of this rulemaking. Consistent with the final SIP Call, EPA has distributed the compliance supplement pool based on a State's share of the overall emissions reductions required. Therefore, if the inventory revisions contained in this final rule resulted in a decrease in any State's share of the overall emission reductions required by the SIP call, then there is a corresponding decrease in that State's compliance supplement pool. Conversely, if any of the inventory revisions resulted in an increase in a State's share of the overall emissions reductions required, then the State would receive a larger share of the 200,000 ton compliance supplement pool.

III. Heavy-Duty Diesel Emission Estimates

The final NO_x budget numbers EPA is presenting today, include corrected estimates for the effects of excess NO_x emissions from highway heavy-duty diesel engines with "defeat devices." These diesel engines use computer software that cause the effectiveness of the engines' emission control systems to be reduced. In essence, the computer software alters the fuel injection timing when the engine operates in certain modes (such as highway driving), causing the engine to emit higher levels of NO_x than indicated by their certification standards or by EPA's existing emission models. The EPA believes that the emissions impact of defeat devices peaked in the late 1990s and subsequently will decline rapidly as newer engines replace defeat device-equipped engines and as manufacturers undertake the mitigation commitments required under the consent decrees reached with the manufacturers of highway heavy-duty diesel engines equipped with defeat devices.

As of July 1, 1999, these consent decrees have become final. The consent decrees commit the manufacturers to reduce emissions from their engines and cease equipping them with defeat devices according to an agreed-upon schedule, and to take steps to mitigate the emissions effects of existing engines equipped with defeat devices. These mitigation commitments include the early introduction of heavy-duty diesel engines that will meet the more stringent NO_x standards scheduled to take effect in 2004, rebuilding existing diesel engines to meet more stringent standards, and accelerating the introduction of lower-emitting nonroad diesel engines. Additional information regarding the defeat device consent decrees can be found in "Notices of Filing of Consent Decree under the Clean Air Act" (63 FR 59330-59334, November 3, 1998). Additional information about defeat devices and their emissions effects can be obtained from the U.S. EPA's Office of Mobile Sources by contacting the Engine Compliance Programs Group at (202) 564-9240 and requesting document VPCD-98-13 (HD Engine), dated October 15, 1998.

In the May 14, 1999 technical amendment, EPA presented updated estimates of NO_x emissions from heavy-duty diesel engines that included the added emissions due to defeat devices and also accounted for the early introduction of engines that meet the 2004 highway heavy-duty diesel engine standards, as specified by the proposed

consent decrees reached with the manufacturers of diesel engines equipped with these devices. Since the consent decrees became final, we have improved our estimates of the impact of defeat devices and the mitigation measures contained in the consent decrees. These improved estimates reflect the rebuild provisions of the consent decrees and more accurately account for the effects of defeat devices and the early introduction of engines meeting the 2004 standards. The final baseline NO_x emission projections and NO_x budgets presented in this notice include these improved estimates.

The EPA is including revised estimates of the effects of defeat devices in this technical amendment even though they were not available at the time of our proposal, for the final NO_x SIP call, or for the May 14, 1999 technical amendment (note that as explained above, the May 14, 1999 technical amendment did include the best estimates that EPA had at that time of the effect of the defeat devices). The EPA finds good cause to use this information without prior proposal. Comment would be unnecessary, since EPA will be including the effects of the defeat devices in both the calculation of the baseline inventories and the establishment of the SIP call budgets. Because the effects of the defeat devices will be included in both the baseline and the emission levels that must be achieved, inclusion of the effects will not alter the obligations that the affected States must meet to comply with the SIP call. The result of this change does not alter the tons of NO_x reductions that the States must achieve, nor does it change the type of controls States are expected to select to reduce NO_x emissions. This change will more accurately reflect EPA's current understanding of emissions from highway mobile sources and the provisions of the final consent decrees. Therefore, EPA finds good cause to include these effects in this final action.

As described above, including the emissions due to defeat devices in the statewide NO_x emissions budgets will not, by itself, alter the emissions reductions that will result from the final NO_x SIP call, because the change in baseline and budget amounts is identical. The change in NO_x budgets varies from State to State but averages approximately 3.5 percent across the entire 37-State Ozone Transport Assessment Group (OTAG) domain, which EPA believes approximates the increase in the States covered by the final NO_x SIP call. The EPA does not believe this change is sufficiently large to alter the conclusions regarding

significant contribution or estimates of the overall benefits of the rule, although it may alter the projected benefits of the rule in specific locations.

IV. Revised Statewide NO_x Emissions Budgets

The final percent reductions from the final October 1999 base year inventory to the final February 18, 2000 budget for each sub-inventory sector are shown in Tables 1–5. The February 18, 2000 final

statewide emissions budgets are shown in Table 6. Table 7 shows the percent change between the statewide NO_x emissions budgets promulgated on May 14, 1999 and the revised final statewide NO_x emissions budgets of February 18, 2000. Table 8 shows each State's final compliance supplement pool.

TABLE 1.—FINAL NO_x BUDGET COMPONENTS AND PERCENT REDUCTION FOR ELECTRICITY GENERATING UNITS
[Tons/season]

State	February 18, 2000—final base	February 18, 2000—final budget	Percent reduction
Alabama	76,926	29,022	62
Connecticut	5,636	2,652	53
Delaware	5,838	5,250	10
District of Columbia	3	207	n/a
Georgia	86,455	30,402	65
Illinois	119,311	32,372	73
Indiana	136,773	47,731	65
Kentucky	107,829	36,503	66
Maryland	32,603	14,656	55
Massachusetts	16,479	15,146	8
Michigan	86,600	32,228	63
Missouri	82,097	24,216	71
New Jersey	18,352	10,250	44
New York	39,199	31,036	21
North Carolina	84,815	31,821	62
Ohio	163,132	48,990	70
Pennsylvania	123,102	47,469	61
Rhode Island	1,082	997	8
South Carolina	36,299	16,772	54
Tennessee	70,908	25,814	64
Virginia	40,884	17,187	58
West Virginia	115,490	26,859	77
Wisconsin	51,962	17,381	67
Total	1,501,775	544,961	64

TABLE 2.—FINAL NO_x BUDGET COMPONENTS AND PERCENT REDUCTION FOR NON-ELECTRICITY GENERATING POINT SOURCES
[Tons/season]

State	February 18, 2000—final base	February 18, 2000—final budget	Percent reduction
Alabama	60,465	43,415	28
Connecticut	5,397	5,216	3
Delaware	2,821	2,473	12
District of Columbia	300	282	6
Georgia	37,245	29,716	20
Illinois	70,948	59,577	16
Indiana	69,011	47,363	31
Kentucky	29,486	25,669	13
Maryland	16,216	12,585	22
Massachusetts	11,210	10,298	8
Michigan	68,801	60,055	13
Missouri	25,964	21,602	17
New Jersey	15,975	15,464	3
New York	32,678	25,477	22
North Carolina	33,114	26,434	20
Ohio	50,001	40,194	20
Pennsylvania	82,107	70,132	15
Rhode Island	1,635	1,635	0
South Carolina	37,960	27,787	27
Tennessee	53,262	39,636	26
Virginia	42,108	35,216	16

TABLE 2.—FINAL NO_x BUDGET COMPONENTS AND PERCENT REDUCTION FOR NON-ELECTRICITY GENERATING POINT SOURCES—Continued
[Tons/season]

State	February 18, 2000—final base	February 18, 2000—final budget	Percent reduction
West Virginia	24,473	20,238	17
Wisconsin	23,734	19,853	16
Total	794,911	640,317	19

TABLE 3.—FINAL NO_x BUDGET COMPONENTS FOR STATIONARY AREA SOURCES
[Tons/season]

State	February 18, 2000—final base	February 18, 2000—final budget	Percent reduction
Alabama	28,762	28,762	0
Connecticut	4,821	4,821	0
Delaware	1,129	1,129	0
District of Columbia	830	830	0
Georgia	13,212	13,212	0
Illinois	9,369	9,369	0
Indiana	29,070	29,070	0
Kentucky	31,807	31,807	0
Maryland	4,448	4,448	0
Massachusetts	11,048	11,048	0
Michigan	31,721	31,721	0
Missouri	7,341	7,341	0
New Jersey	12,431	12,431	0
New York	17,423	17,423	0
North Carolina	11,067	11,067	0
Ohio	21,860	21,860	0
Pennsylvania	17,842	17,842	0
Rhode Island	448	448	0
South Carolina	9,415	9,415	0
Tennessee	13,333	13,333	0
Virginia	27,738	27,738	0
West Virginia	5,459	5,459	0
Wisconsin	11,253	11,253	0
Total	321,827	321,827	0

TABLE 4.—FINAL NO_x BUDGET COMPONENTS FOR NONROAD MOBILE SOURCES
[Tons/season]

State	February 18, 2000—final base	February 18, 2000—final budget	Percent reduction
Alabama	20,146	20,146	0
Connecticut	10,736	10,736	0
Delaware	5,651	5,651	0
District of Columbia	3,135	3,135	0
Georgia	26,467	26,467	0
Illinois	56,724	56,724	0
Indiana	26,494	26,494	0
Kentucky	15,025	15,025	0
Maryland	20,026	20,026	0
Massachusetts	20,166	20,166	0
Michigan	26,935	26,935	0
Missouri	20,829	20,829	0
New Jersey	23,565	23,565	0
New York	42,091	42,091	0
North Carolina	22,005	22,005	0
Ohio	43,380	43,380	0
Pennsylvania	30,571	30,571	0
Rhode Island	2,455	2,455	0
South Carolina	14,637	14,637	0
Tennessee	52,920	52,920	0
Virginia	27,859	27,859	0

TABLE 4.—FINAL NO_x BUDGET COMPONENTS FOR NONROAD MOBILE SOURCES—Continued
[Tons/season]

State	February 18, 2000—final base	February 18, 2000—final budget	Percent reduction
West Virginia	10,433	10,433	0
Wisconsin	17,965	17,965	0
Total	540,215	540,215	0

TABLE 5.—FINAL NO_x BUDGET COMPONENTS FOR HIGHWAY MOBILE SOURCES
[Tons/season]

State	February 18, 2000—final base	February 18, 2000—final budget	Percent reduction
Alabama	51,274	51,274	0
Connecticut	19,424	19,424	0
Delaware	8,358	8,358	0
District of Columbia	2,204	2,204	0
Georgia	88,775	88,775	0
Illinois	112,518	112,518	0
Indiana	79,307	79,307	0
Kentucky	53,268	53,268	0
Maryland	30,183	30,183	0
Massachusetts	28,190	28,190	0
Michigan	78,763	78,763	0
Missouri	51,615	51,615	0
New Jersey	35,166	35,166	0
New York	124,2611	124,261	0
North Carolina	73,695	73,695	0
Ohio	94,850	94,850	0
Pennsylvania	91,578	91,578	0
Rhode Island	3,843	3,843	0
South Carolina	54,494	54,494	0
Tennessee	66,342	66,342	0
Virginia	72,195	72,195	0
West Virginia	20,844	20,844	0
Wisconsin	69,319	69,319	0
Total	1,310,466	1,310,466	0

TABLE 6.—FEBRUARY 18, 2000 FINAL STATEWIDE NO_x BUDGETS AND PERCENT REDUCTION
[Tons/season]

State	February 18, 2000—final base	February 18, 2000—final budget	Tons reduced	Percent reduction
Alabama	237,573	172,619	64,954	27
Connecticut	46,015	42,849	3,166	7
Delaware	23,798	22,861	937	4
District of Columbia	6,471	6,658	- 187	- 3
Georgia	252,154	188,572	63,582	25
Illinois	368,870	270,560	98,310	27
Indiana	340,654	229,965	110,689	32
Kentucky	237,415	162,272	75,143	32
Maryland	103,476	81,898	21,578	21
Massachusetts	87,092	84,848	2,244	3
Michigan	292,820	229,702	63,118	22
Missouri	187,845	125,603	62,242	33
New Jersey	105,489	96,876	8,613	8
New York	255,653	240,288	15,365	6
North Carolina	224,697	165,022	59,675	27
Ohio	373,223	249,274	123,949	33
Pennsylvania	345,201	257,592	87,609	25
Rhode Island	9,463	9,378	85	1
South Carolina	152,805	123,105	29,700	19
Tennessee	256,765	198,045	58,720	23
Virginia	210,784	180,195	30,589	15
West Virginia	176,699	83,833	92,866	53
Wisconsin	174,234	135,771	38,463	22
Total	4,469,196	3,357,786	1,111,410	25

TABLE 7.—PERCENT CHANGES BETWEEN MAY 14, 1999 BUDGETS AND FEBRUARY 18, 2000 BUDGETS
[Tons/season]

State	5/14/99—total 2007 budget	2/18/00—total 2007 budget	Percent change
Alabama	172,037	172,619	0
Connecticut	43,081	42,849	-1
Delaware	22,789	22,861	0
District of Columbia	6,672	6,658	0
Georgia	189,634	188,572	-1
Illinois	274,799	270,560	-2
Indiana	238,970	229,965	-4
Kentucky	155,619	162,272	4
Maryland	81,625	81,898	0
Massachusetts	85,296	84,848	-1
Michigan	224,582	229,702	2
Missouri	128,146	125,603	-2
New Jersey	100,133	96,876	-3
New York	240,123	240,288	0
North Carolina	168,373	165,022	-2
Ohio	250,930	249,274	-1
Pennsylvania	257,441	257,592	0
Rhode Island	9,810	9,378	-4
South Carolina	124,211	123,105	-1
Tennessee	197,664	198,045	0
Virginia	185,027	180,195	-3
West Virginia	91,216	83,833	-8
Wisconsin	136,172	135,771	0
Total	3,384,350	3,357,786	-1

TABLE 8.—STATE COMPLIANCE SUPPLEMENT POOL
[Tons]

State	February 18, 2000—final base	February 18, 2000—final budget	Tonnage reduction	Compliance supplement pool
Alabama	237,573	172,619	64,954	11,687
Connecticut	46,015	42,849	3,166	569
Delaware	23,798	22,861	937	168
District of Columbia	6,471	6,658	(187)	0
Georgia	252,154	188,572	63,582	11,440
Illinois	368,870	270,560	98,310	17,688
Indiana	340,654	229,965	110,689	19,915
Kentucky	237,415	162,272	75,143	13,520
Maryland	103,476	81,898	21,578	3,882
Massachusetts	87,092	84,848	2,244	404
Michigan	292,820	229,702	63,118	11,356
Missouri	187,845	125,603	62,242	11,199
New Jersey	105,489	96,876	8,613	1,550
New York	255,653	240,288	15,365	2,764
North Carolina	224,697	165,022	59,675	10,737
Ohio	373,223	249,274	123,949	22,301
Pennsylvania	345,201	257,592	87,609	15,763
Rhode Island	9,463	9,378	85	15
South Carolina	152,805	123,105	29,700	5,344
Tennessee	256,765	198,045	58,720	10,565
Virginia	210,784	180,195	30,589	5,504
West Virginia	176,699	83,833	92,866	16,709
Wisconsin	174,234	135,771	38,463	6,920
Total	4,469,196	3,357,786	1,111,410	200,000

V. Administrative Requirements

A. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 804 *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 U.S. prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

B. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order 12866, (58 FR 51735, October 4, 1993), this technical amendment is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget (OMB) because this action simply revises the emissions budget numbers of the NO_x SIP call final rule. 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 technical amendment does not create any additional impacts beyond what was promulgated in the final NO_x SIP call, therefore, no additional RIA is needed.

C. Unfunded Mandates Reform Act

This technical amendment 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) (Public Law 104-4). The EPA did not reach a final conclusion as to the applicability of the requirements of the UMRA to the final NO_x SIP call. The EPA prepared a statement that would be required by UMRA if its statutory provisions applied and has consulted with governmental entities as would be required by UMRA. Because today's technical amendment does not create any additional mandates, no further UMRA analysis is needed.

D. 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. 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 final 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 corrects the emissions inventory and statewide budgets for the NO_x SIP call and imposes no additional burdens beyond those imposed by the final NO_x SIP call. These corrections were made in response to comments received on the NO_x SIP call and the May 14, 1999 technical correction. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

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

representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. The EPA stated in the final NO_x SIP call 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.

F. Executive Order 12898: Environmental Justice

In addition, since today's action is only a technical amendment, 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.

G. 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, 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 technical amendment

on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

This technical amendment will not impose any requirements on small entities. This action corrects the emissions inventory and statewide budgets for the NO_x SIP call and does not itself establish requirements applicable to small entities.

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

This technical amendment also is not subject to Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks) (62 FR 19885, April 23, 1997) because 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 technical amendment is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks and is not economically significant under Executive Order 12866.

I. National Technology Transfer and Advancement Act

In addition, the National Technology Transfer and Advancement Act of 1997 does not apply because today's technical amendment 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).

J. Judicial Review

Section 307(b)(1) of the Clean Air Act (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 this final action is published in the **Federal Register**.

K. 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.

List of Subjects in 40 CFR Part 51

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

Dated: February 18, 2000.

Carol M. Browner,
Administrator.

40 CFR part 51 is amended as follows:

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

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

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

Subpart G—Control Strategy [Amended]

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

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

* * * * *

(e) * * *

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

State	Budget
Alabama	172,619
Connecticut	42,849
Delaware	22,861
District of Columbia	6,658
Georgia	188,572
Illinois	270,560
Indiana	229,965
Kentucky	162,272
Maryland	81,898
Massachusetts	84,848
Michigan	229,702
Missouri	125,603
New Jersey	96,876
New York	240,288
North Carolina	165,022
Ohio	249,274
Pennsylvania	257,592
Rhode Island	9,378
South Carolina	123,105
Tennessee	198,045
Virginia	180,195
West Virginia	83,833
Wisconsin	135,771
Total	3,357,786

(3) * * *

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

State	Compliance supplement pool (tons of NO _x)
Alabama	11,687
Connecticut	569
Delaware	168
District of Columbia	0
Georgia	11,440
Illinois	17,688
Indiana	19,915
Kentucky	13,520
Maryland	3,882
Massachusetts	404
Michigan	11,356
Missouri	11,199
New Jersey	1,550
New York	2,764
North Carolina	10,737
Ohio	22,301
Pennsylvania	15,763
Rhode Island	15
South Carolina	5,344
Tennessee	10,565

State	Compliance supplement pool (tons of NO _x)	State	Compliance supplement pool (tons of NO _x)
Virginia	5,504	Wisconsin	6,920
West Virginia	16,709	Total	200,000

* * * * *

(g) * * *

(2) * * *

(ii) The revised NO_x emissions sub-inventories for each State, expressed in tons per ozone season, are as follows:

State	EGU	Non-EGU	Area	Nonroad	Highway	Total
Alabama	29,022	43,415	28,762	20,146	51,274	172,619
Connecticut	2,652	5,216	4,821	10,736	19,424	42,849
Delaware	5,250	2,473	1,129	5,651	8,358	22,861
District of Columbia	207	282	830	3,135	2,204	6,658
Georgia	30,402	29,716	13,212	26,467	88,775	188,572
Illinois	32,372	59,577	9,369	56,724	112,518	270,560
Indiana	47,731	47,363	29,070	26,494	79,307	229,965
Kentucky	36,503	25,669	31,807	15,025	53,268	162,272
Maryland	14,656	12,585	4,448	20,026	30,183	81,898
Massachusetts	15,146	10,298	11,048	20,166	28,190	84,848
Michigan	32,228	60,055	31,721	26,935	78,763	229,702
Missouri	24,216	21,602	7,341	20,829	51,615	125,603
New Jersey	10,250	15,464	12,431	23,565	35,166	96,876
New York	31,036	25,477	17,423	42,091	124,261	240,288
North Carolina	31,821	26,434	11,067	22,005	73,695	165,022
Ohio	48,990	40,194	21,860	43,380	94,850	249,274
Pennsylvania	47,469	70,132	17,842	30,571	91,578	257,592
Rhode Island	997	1,635	448	2,455	3,843	9,378
South Carolina	16,772	27,787	9,415	14,637	54,494	123,105
Tennessee	25,814	39,636	13,333	52,920	66,342	198,045
Virginia	17,187	35,216	27,738	27,859	72,195	180,195
West Virginia	26,859	20,238	5,459	10,433	20,844	83,833
Wisconsin	17,381	19,853	11,253	17,965	69,319	135,771
Total	544,961	640,317	321,827	540,215	1,310,466	3,357,786

Note to paragraph (g)(2)(ii): Totals may not sum due to rounding.

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[FR Doc. 00-4518 Filed 3-1-00; 8:45 am]
 BILLING CODE 6560-50-p

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-6545-2]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality; Maricopa County; Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to delegate the authority to implement and enforce specific national emission standards for hazardous air pollutants (NESHAPs) to the Maricopa County Environmental Services Department (MC) in Arizona. The preamble outlines the process that MC will use to receive delegation of any future NESHAPs, and identifies the

NESHAP categories to be delegated by today's action. EPA has reviewed MC's request for delegation and has found that this request satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting MC the authority to implement and enforce the unchanged NESHAP categories listed in this rule. This action is also notifying the public of additional NESHAPs that were delegated to the Arizona Department of Environmental Quality (ADEQ) on November 10, 1999.

DATES: This rule is effective on May 1, 2000, without further notice, unless EPA receives relevant adverse comments by April 3, 2000. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the request for delegation and other supporting documentation are available for public inspection (docket number A-96-25) at the following location:

U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR-4), Air Division, 75 Hawthorne Street, San Francisco, California 94105-3901.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901, (415) 744-1200.

SUPPLEMENTARY INFORMATION:

I. Background

A. Delegation of NESHAPs

Section 112(l) of the Clean Air Act, as amended in 1990 (CAA), authorizes EPA to delegate to state or local air pollution control agencies the authority to implement and enforce the standards set out in 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR Part 63, Subpart E (hereinafter referred to as "Subpart E"), establishing procedures for EPA's approval of state rules or programs under section 112(l) (*see* 58 FR 62262).

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and 40 CFR Part 63, Subpart E. To streamline the approval process for future applications, a state or