

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL-6338-6]

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 oxides of nitrogen (NOx) statewide emissions budgets for the 22 States and the District of Columbia that are required to submit State implementation plan (SIP) revisions to address the regional transport of ozone (also referred to as the NOx SIP call). These revisions are based on the comments received during the comment period for emissions inventory revisions to 2007 baseline sub-inventory information used to establish each State's budget in the NOx SIP call.

DATES: This rule is effective [INSERT 30 DAYS FROM PUBLICATION].

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://epa.gov/ttn/oarpg/otagsip.html>.

FOR FURTHER INFORMATION CONTACT: General questions concerning today's technical amendment should be addressed to Kimber S. Scavo, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-3354; e-mail: scavo.kimber@epa.gov. Specific questions on the revised NOx emissions budgets should be directed to Greg 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, Acid Rain 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, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional

Transport of Ozone" (63 FR 57356), which may be referred to as the NOx SIP call. The final NOx SIP call provided that the opportunity for comments on 2007 baseline sub-inventory revisions would be available for 60 days after signature of the NOx SIP call.

The EPA received numerous requests to allow more time to accept revisions to source-specific inventory data used to establish each State's emissions baseline and budget in the NOx SIP call and to also allow revisions to vehicle miles traveled (VMT) projections. Therefore, by notice dated December 24, 1998, EPA published, "Correction and Clarification to the Finding of Significant Contribution and Rulemaking for Purposes of Reducing Regional Transport of Ozone" (63 FR 71220), which may be referred to as the correction notice.

In these notices, EPA reopened and extended the comment period on emissions inventory revisions to 2007 baseline sub-inventory information used to establish each State's budget in the NOx SIP call. This included source-specific emission inventory data, data on VMT and nonroad mobile growth rates, VMT distribution by vehicle class, average speed by roadway type, inspection and maintenance program parameters, and other input parameters used in the calculation of highway vehicle emissions. The EPA extended

this time period for additional comment to February 22, 1999 in the correction notice.

The EPA is proceeding to final action now based on the comments received from the public in response to this extended comment period. To the extent the Administrative Procedure Act might require publication of a notice of proposed rulemaking for this action, EPA finds good cause to dispense with such proposal, because EPA has already provided an opportunity for public comment (5 U.S.C. 553(b)(B)).

I. Public Comments

The EPA stated in "Correction and Clarification to the Finding of Significant Contribution and Rulemaking for Purposes of Reducing Regional Transport of Ozone" that the Agency would evaluate the data submitted by commenters and, if it was determined to be technically justified, revise the State baseline inventory and budgets for the NOx SIP call to reflect the new data by April 23, 1999. The Agency received approximately 300 comments. The Response to Comment Document (RTC) entitled "Responses to the 2007 Baseline Sub-inventory Information and Significant Comments for the Final NOx SIP Call," addresses EPA's response to the submitted comments in detail. The EPA also developed a technical support document (TSD) entitled "Development of Emission

Budget Inventories for the Regional Transport NOx SIP call." Upon promulgation of this technical amendment (i.e., signature), the TSD and RTC documents will be available in the dockets and the website listed above in ADDRESSES. All comments were considered in finalizing this technical amendment including numerous comments submitted after the February 22, 1999 deadline and those where the commenter did not adhere to the requests for data that were specified in the final NOx SIP call and the correction notice. Individuals interested in the specific modifications requested by commenters may review the materials as they were submitted to the dockets.

II. Major Changes to the Statewide NOx Emissions Budgets

Changes to the Statewide NOx emissions budgets are mainly in response to the comments submitted during the reopened and extended comment periods indicated in the section above. Each of the sub-inventory sectors of EGU, non-EGU point, area, nonroad mobile, and highway mobile were commented on and affected by these comments and EPA action.

As a result of these revisions, EPA anticipates that full implementation of the NOx SIP call will reduce total NOx emissions by 1.142 million tons. This is a slight decrease from the 1.157 million tons in total NOx reductions

from the final NOx SIP call. The total overall percent reduction decreased slightly from 28 percent to 25 percent as a result of an increase in the emissions inventory baseline. Even though there was a slight increase in the overall NOx emissions inventory, EPA expects that the air quality benefits and the impacts on cost-effectiveness would remain virtually the same because the emissions change is so small.

The EGU source budgets increased by less than 1 percent. 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 NOx SIP call.

The non-EGU source budgets increased by 14 percent for several reasons. First, many sources were reclassified from large non-EGUs to small non-EGUs, thereby removing them from the category of sources requiring budget level controls. 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 NOx 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. Consequently, the overall result of these changes increased the non-EGU budget by 14 percent. 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 NOx SIP call by 12,070 tons.

Changes in the stationary area source budgets resulted in an overall budget increase of 11 percent. Some State and local agencies submitted revised stationary area source inventories to replace their final NOx 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 in the ozone

season. Since EPA does not apply any controls to this source sector in calculating the reductions for the final NOx 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 19 percent. 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 does not apply any controls to this source sector in calculating the reductions for the final NOx SIP call, there is no expected affect on the overall reduction due to these changes.

Changes in the highway mobile source sector resulted in a 14 percent budget increase. Differences in the highway sector of the State emissions budgets are in response to State and local agency comments on 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 NOx 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 does not apply any controls to this source sector in calculating the reductions for the final NOx SIP call, there is no expected effect on the overall reduction due to these changes.

III. Heavy-Duty Diesel Emission Estimates

The final NOx budget numbers EPA is presenting today include the effects of excess NOx 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 NOx than indicated by their certification standards or by EPA's existing emission models.

In September of 1998, when EPA developed the budgets for the final NOx SIP call, EPA had not yet completed its evaluation of the impact of these defeat devices on NOx emissions. As a result, EPA did not include the added emissions in those NOx budgets. Since that time, EPA has completed its evaluation and entered into proposed consent decrees with the manufacturers of diesel engines equipped with these devices. These consent decrees would 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 NOx standards scheduled to take effect in 2004. 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.

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 proposed consent decrees. The final baseline NOx emission projections and NOx budgets presented in this notice include the effects of defeat devices and the commitments made by diesel engine manufacturers in the settlement to introduce diesel engines

meeting the 2004 standards prior to 2004. Including the emissions due to defeat devices in the statewide NOx emissions budgets will not, by themselves, alter the emission reductions that will result from the final NOx SIP call, because the change in baseline and budget amounts is identical. The increase in NOx budgets varies from State to State but averages approximately 5.6 percent across the entire 37-State OTAG domain, which EPA believes approximates the increase in the States covered by the final NOx SIP call. The EPA does not believe this increase 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.

The EPA is including the effects of the defeat devices in this technical amendment even though they were not available at the time of proposal or for the final NOx SIP call. 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 NOx reductions that the States must achieve, nor does it change the type of controls States are expected to select to reduce NOx emissions. This change will more accurately reflect EPA's current understanding of emissions from highway mobile sources. Therefore, EPA finds good cause to include these effects in this final action.

IV. Revised Statewide NOx Emissions Budgets

The final percent reduction from the 2007 Base Case to the Revised May 3, 1999 Budget for electricity generating sources is shown in Table 1.

**Table 1. Final NOx Budget Components and Percent Reduction for Electricity Generating Units
(tons/season)**

State	Final 2007 Base	5/3/99 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 ¹
Georgia	86,455	30,402	65%
Illinois	119,311	32,373	73%
Indiana	136,773	47,731	65%
Kentucky	107,829	36,503	66%
Maryland	32,603	14,656	55%

¹The majority of D.C.'s capacity is projected to shut down by 2007. Thus the 2007 base tonnage is very low. The budget target for all States is based on current capacity.

Massachusetts	16,479	15,145	8%
Michigan	86,600	32,467	63%
Missouri	82,097	24,194	71%
New Jersey	18,352	10,384	43%
New York	39,199	31,009	21%
North Carolina	84,815	31,840	62%
Ohio	163,132	49,266	70%
Pennsylvania	123,102	48,311	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	26,624	77%
Wisconsin	51,962	17,375	67%
Total	1,501,775	546,181	64%

The final percent reduction from the 2007 Base Case to the May 3, 1999 Final Budget for non-electricity generating sources is shown in Table 2.

Table 2. Final NOx Budget Components and Percent Reduction for Non-Electricity Generating Point Sources (tons/season)

State	Final 2007 Base	5/3/99 Final Budget	Percent Reduction
Alabama	58,791	41,865	29%
Connecticut	5,124	4,970	3%
Delaware	2,370	2,235	6%
District of Columbia	300	282	6%
Georgia	36,827	29,024	21%
Illinois	72,183	58,670	19%
Indiana	80,884	53,463	34%
Kentucky	29,328	17,861	39%
Maryland	15,554	11,568	26%
Massachusetts	11,229	10,296	8%

Michigan	62,988	53,703	15%
Missouri	26,870	23,182	14%
New Jersey	18,345	17,863	3%
New York	28,281	22,935	19%
North Carolina	34,888	27,635	21%
Ohio	53,074	39,453	26%
Pennsylvania	82,270	67,602	18%
Rhode Island	2,031	2,031	0%
South Carolina	37,495	27,768	26%
Tennessee	53,198	37,994	29%
Virginia	54,414	38,617	29%
West Virginia	32,235	27,369	15%
Wisconsin	22,886	18,584	19%
Total	821,563	634,970	23%

The final percent reduction from the 2007 Base Case to the May 3, 1999 Final Budget for stationary area sources is shown in Table 3.

Table 3. Final NOx Budget Components for Stationary Area Sources

(tons/season)

State	Final 2007 Base	5/3/99 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	321,826	321,826	0%

The final percent reduction from the 2007 Base Case to the May 3, 1999 Final Budget for nonroad sources is shown in Table 4.

**Table 4. Final NO_x Budget Components for Nonroad Sources
(tons/season)**

State	Final 2007 Base	5/3/99 Final Budget	Percent Reduction
Alabama	20,186	20,186	0%
Connecticut	10,736	10,736	0%
Delaware	5,651	5,651	0%
District of Columbia	3,138	3,138	0%
Georgia	26,497	26,497	0%
Illinois	57,033	57,033	0%
Indiana	26,536	26,536	0%
Kentucky	15,042	15,042	0%
Maryland	20,121	20,121	0%
Massachusetts	20,166	20,166	0%
Michigan	26,940	26,940	0%
Missouri	20,875	20,875	0%
New Jersey	23,565	23,565	0%
New York	42,091	42,091	0%

North Carolina	22,045	22,045	0%
Ohio	43,780	43,780	0%
Pennsylvania	30,635	30,635	0%
Rhode Island	2,455	2,455	0%
South Carolina	14,670	14,670	0%
Tennessee	52,985	52,985	0%
Virginia	27,867	27,867	0%
West Virginia	10,438	10,438	0%
Wisconsin	17,975	17,975	0%
Total	541,428	541,428	0%

The final percent reduction from the 2007 Base Case to the May 3, 1999 Final Budget for highway sources is shown in Table 5.

**Table 5. Final NOx Budget Components for Highway Vehicles
(tons/season)**

State	Final 2007 Base	5/3/99 Final Budget	Percent Reduction
Alabama	52,202	52,202	0%
Connecticut	19,902	19,902	0%
Delaware	8,524	8,524	0%
District of Columbia	2,215	2,215	0%
Georgia	90,499	90,499	0%
Illinois	117,354	117,354	0%
Indiana	82,170	82,170	0%
Kentucky	54,406	54,406	0%
Maryland	30,832	30,832	0%
Massachusetts	28,641	28,641	0%
Michigan	79,751	79,751	0%
Missouri	52,554	52,554	0%
New Jersey	35,890	35,890	0%
New York	126,664	126,664	0%
North Carolina	75,785	75,785	0%
Ohio	96,572	96,572	0%

Pennsylvania	93,052	93,052	0%
Rhode Island	3,879	3,879	0%
South Carolina	55,585	55,585	0%
Tennessee	67,538	67,538	0%
Virginia	73,619	73,619	0%
West Virginia	21,325	21,325	0%
Wisconsin	70,984	70,984	0%
Total	1,339,944	1,339,944	0%

The May 3, 1999 final statewide emissions budgets are shown in Table 6.

Table 6. May 3, 1999 Final Statewide NO_x Budgets and Percent Reduction

(tons/season)

State	Final 2007 Base	5/3/99 Final Budget	Tons Reduction	Percent Reduction
Alabama	236,867	172,037	64,830	27%
Connecticut	46,220	43,081	3,138	7%
Delaware	23,512	22,789	723	3%
District of Columbia	6,485	6,672	(187)	-3%
Georgia	253,489	189,634	63,856	25%
Illinois	375,250	274,799	100,451	27%
Indiana	355,433	238,970	116,463	33%
Kentucky	238,412	155,619	82,793	35%
Maryland	103,558	81,625	21,933	21%
Massachusetts	87,563	85,296	2,267	3%
Michigan	288,000	224,582	63,419	22%
Missouri	189,737	128,146	61,591	32%
New Jersey	108,584	100,133	8,450	8%
New York	253,659	240,123	13,536	5%
North Carolina	228,600	168,373	60,228	26%
Ohio	378,418	250,930	127,487	34%
Pennsylvania	346,900	257,441	89,459	26%
Rhode Island	9,895	9,810	85	1%
South Carolina	153,465	124,211	29,254	19%
Tennessee	257,962	197,664	60,298	23%

Virginia	224,521	185,027	39,494	18%
West Virginia	184,947	91,216	93,731	51%
Wisconsin	175,061	136,172	38,889	22%
Total	4,526,538	3,384,350	1,142,188	25%

Table 7 shows the percent change between the statewide NOx emissions budgets promulgated on September 24, 1998 and the revised final statewide NOx emissions budgets of May 3, 1999.

**Table 7. Percent Changes Between September 24, 1998 budgets and May 3, 1999 budgets
(tons/season)**

State	9/24/98 Total 2007 Budget	5/3/99 Total 2007 Budget	Percent Change
Alabama	158,677	172,037	8%
Connecticut	40,573	43,081	6%
Delaware	18,523	22,789	23%
District of Columbia	6,792	6,672	-2%
Georgia	177,381	189,634	7%
Illinois	210,210	274,799	31%
Indiana	202,584	238,970	18%
Kentucky	155,698	155,619	0%
Maryland	71,388	81,625	14%
Massachusetts	78,168	85,296	9%
Michigan	212,199	224,582	6%
Missouri	114,532	128,146	12%
New Jersey	97,034	100,133	3%
New York	179,769	240,123	34%
North Carolina	151,847	168,373	11%
Ohio	239,898	250,930	5%
Pennsylvania	252,447	257,441	2%
Rhode Island	8,313	9,810	18%
South Carolina	109,425	124,211	14%

Tennessee	182,476	197,664	8%
Virginia	155,718	185,027	19%
West Virginia	92,920	91,216	-2%
Wisconsin	106,540	136,172	28%
Total	3,023,113	3,384,350	12%

Table 8 shows each State's final compliance supplement pool.

**Table 8. State Compliance Supplement Pool
(tons)**

State	Base	Budget	Tonnage Reduction	Compliance Supplement Pool
Alabama	236,867	172,037	64,830	11,350
Connecticut	46,220	43,081	3,138	549
Delaware	23,512	22,789	723	127
District of Columbia	6,485	6,672	-186	0
Georgia	253,489	189,634	63,856	11,179
Illinois	375,250	274,799	100,451	17,586
Indiana	355,433	238,970	116,463	20,390
Kentucky	238,412	155,619	82,793	14,495
Maryland	103,558	81,625	21,933	3,840
Massachusetts	87,563	85,296	2,267	397
Michigan	288,000	224,582	63,419	11,103
Missouri	189,737	128,146	61,591	10,783
New Jersey	108,584	100,133	8,450	1,479
New York	253,659	240,123	13,536	2,370
North Carolina	228,600	168,373	60,228	10,544
Ohio	378,418	250,930	127,487	22,320
Pennsylvania	346,900	257,441	89,459	15,662
Rhode Island	9,895	9,810	85	15
South Carolina	153,465	124,211	29,254	5,122
Tennessee	257,962	197,664	60,298	10,557
Virginia	224,521	185,027	39,494	6,914
West Virginia	184,947	91,216	93,731	16,410
Wisconsin	175,061	136,172	38,889	6,808
Total	4,526,538	3,384,350	1,142,188	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

Under Executive Order (E.O.) 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 NOx SIP call final rule. The final NOx SIP call was submitted to OMB for review. The EPA prepared a regulatory impact analysis (RIA) for the final NOx SIP call titled "Regulatory Impact Analysis for the NOx 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 NOx SIP call, therefore, no additional RIA is needed.

C. Unfunded Mandates Reform Act

This technical amendment also does not impose any 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 did not reach a final conclusion as to the applicability of the requirements of the UMRA to the final NOx 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 12875

This technical amendment also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993). The final NOx SIP call did not

create a mandate on State, local or tribal governments. As explained in the final NOx SIP call in the discussion of UMRA and the Executive Order 12875, the final rule did not impose an enforceable duty on these entities. Therefore, the Executive Order 12875 does not apply to this technical amendment to the final NOx SIP call.

E. Executive Order 13084

The EPA stated in the final NOx SIP call that Executive Order 13084 (63 FR 27655, May 10, 1998) 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 NOx sources located on tribal lands.

F. Executive Order 12898

In addition, since today's action is a technical amendment, this action does not involve special consideration of environmental justice related issues as required by E.O. 12898 (59 FR 7629, February 16, 1994). For the final NOx 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

This technical amendment is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Both the final NOx SIP call and this technical amendment will not have a significant impact on a substantial number of small entities because this action does not establish requirements applicable to small entities.

H. Executive Order 13045

This technical amendment also is not subject to E.O. 13045 (Protection of Children from Environmental Health Risks and Safety Risks) (62 FR 19885, April 23, 1997) because EPA interprets E.O. 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 E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks and is not economically significant under E.O. 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 NOx SIP call, is discussed in more detail in 63 FR 57477-81 (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 NOx 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 NOx SIP call requires 22 States and the District of Columbia to decrease emissions of NOx. The NOx

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 NOx SIP call. Finally, EPA has established uniform approvability criteria that would be applied to all States subject to the NOx SIP call. For these reasons, the Administrator has also determined that any final action regarding the NOx 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 NOx 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.

H. Paperwork Reduction Act

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

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:

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. 7401-7671q.

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 NOx budget, expressed in tons, are as follows:

State	Budget
Alabama	172,037
Connecticut	43,081
Delaware	22,789
District of Columbia	6,672
Georgia	189,634
Illinois	274,799
Indiana	238,970
Kentucky	155,619
Maryland	81,625
Massachusetts	85,296

Michigan	224,582
Missouri	128,146
New Jersey	100,133
New York	240,123
North Carolina	168,373
Ohio	250,930
Pennsylvania	257,441
Rhode Island	9,810
South Carolina	124,211
Tennessee	197,664
Virginia	185,027
West Virginia	91,216
Wisconsin	136,172
Total	3,384,350

(3) * * *

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

State	Compliance Supplement Pool (Tons of NOx)
Alabama	11,350
Connecticut	549
Delaware	127
District of Columbia	0
Georgia	11,179
Illinois	17,586
Indiana	20,390
Kentucky	14,495
Maryland	3,840
Massachusetts	397
Michigan	11,103
Missouri	10,783
New Jersey	1,479
New York	2,370

North Carolina	10,544
Ohio	22,320
Pennsylvania	15,662
Rhode Island	15
South Carolina	5,122
Tennessee	10,557
Virginia	6,914
West Virginia	16,410
Wisconsin	6,808
Total	200,000

* * * * *

(g) * * *

(2) * * *

(ii) The base year 2007 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	76,926	58,791	28,762	20,186	52,202	236,867
Connecticut	5,636	5,124	4,821	10,736	19,902	46,220
Delaware	5,838	2,370	1,129	5,651	8,524	23,512
District of Columbia	3	300	830	3,138	2,215	6,485
Georgia	86,455	36,827	13,212	26,497	90,499	253,489
Illinois	119,311	72,183	9,369	57,033	117,354	375,250
Indiana	136,773	80,884	29,070	26,536	82,170	355,433
Kentucky	107,829	29,328	31,807	15,042	54,406	238,412
Maryland	32,603	15,554	4,448	20,121	30,832	103,558
Massachusetts	16,479	11,229	11,048	20,166	28,641	87,563
Michigan	86,600	62,988	31,721	26,940	79,751	288,000
Missouri	82,097	26,870	7,341	20,875	52,554	189,737
New Jersey	18,352	18,345	12,431	23,565	35,890	108,584
New York	39,199	28,281	17,423	42,091	126,664	253,659
North Carolina	84,815	34,888	11,067	22,045	75,785	228,600
Ohio	163,132	53,074	21,860	43,780	96,572	378,418
Pennsylvania	123,102	82,270	17,842	30,635	93,052	346,900

Rhode Island	1,082	2,031	448	2,455	3,879	9,895
South Carolina	36,299	37,495	9,415	14,670	55,585	153,465
Tennessee	70,908	53,198	13,333	52,985	67,538	257,962
Virginia	40,884	54,414	27,738	27,867	73,619	224,521
West Virginia	115,490	32,235	5,459	10,438	21,325	184,947
Wisconsin	51,962	22,886	11,253	17,975	70,984	175,061
Total	1,501,775	821,563	321,826	541,428	1,339,944	4,526,538

*Totals may not sum due to rounding.

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