December 31, 1999 to 12:35 a.m. on January 1, 2000, and from 6:45 p.m. to 7:35 p.m. on January 1, 2000.

Dated: September 27, 1999.

Thomas E. Bernard,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 99–26354 Filed 10–7–99; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49 and 52

[FRL–6454–4]

Source Specific Federal Implementation Plans for Navajo Generating Station and Four Corners Power Plant, Navajo Nation: Proposed Rules; Extension of Public Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules; extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for two proposed rules published September 8, 1999 (64 FR 48725 and 64 FR 48731), proposing source specific Federal Implementation Plans for the Navajo Generating Station, located on the Navajo Indian Reservation near Page, Arizona, and the Four Corners Power Plant, located on the Navajo Indian Reservation near Farmington, New Mexico.

At the request of the Arizona Public Service Company, EPA is extending the comment period until November 8, 1999.

DATES: The comment period on the proposed rules is extended until November 8, 1999.

ADDRESSES: Written comments should be addressed to: Douglas K. McDaniel, Air Division (AIR–8), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Douglas K. McDaniel, Air Division (AIR–8), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1246.

Dated: September 30, 1999.

Felicia Marcus,

Regional Administrator, Region 9.

[FR Doc. 99–26333 Filed 10–7–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY34–1–198 FRL–6454–8]

Approval and Promulgation of Air Quality Implementation Plans; New York; Approval of Carbon Monoxide State Implementation Plan Revision; Removal of the Oxygenated Gasoline Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In today's action, EPA is proposing to approve a State Implementation Plan revision submitted by the State of New York on August 30, 1999. That revision removes New York's oxygenated gasoline program as a carbon monoxide control measure from the State's SIP. EPA is proposing to approve this revision because EPA has also determined that the New York—Northern New Jersey—Long Island carbon monoxide nonattainment area has attained the carbon monoxide National Ambient Air Quality Standards.

DATES: Comments must be received on or before November 8, 1999.

ADDRESSES: All comments should be addressed to: Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, NY 10007–1866.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment, at the following addresses: Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007–1866. New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Michael P. Moltzen, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–3710.

SUPPLEMENTARY INFORMATION:

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1. What Action Is EPA Taking Today?

EPA is determining that New York's oxygenated gasoline (oxyfuel) program is no longer needed to maintain the health-related carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS). As a consequence of this determination, EPA is proposing to approve part of a State Implementation Plan (SIP) revision submitted by the State of New York on August 30, 1999. That revision in part removes New York's oxyfuel program as a CO control measure from the State's CO SIP. In today's action, EPA is proposing to approve removal of the oxyfuel program because it has been determined that the program is no longer necessary to keep ambient CO concentrations below the CO NAAQS.

In a separate notice published on September 9, 1999 (64 FR 48790), EPA proposed to determine that the New York—Northern New Jersey—Long Island CO nonattainment area[1] (''the New York City CO nonattainment area'', ''the New York City area,'' or ''the area'') has attained the CO NAAQS.

Under Clean Air Act section 211(m), States with certain CO nonattainment areas are required to implement oxyfuel programs. Under section 211(m)(6), once such an area subsequently attains the CO NAAQS, oxyfuel requirements may be removed if it is demonstrated that they are not needed for maintaining healthy air quality in that area. Air quality measurements show that CO concentrations throughout the New York City area have been declining and have been below the CO NAAQS for more than four years. Complete monitoring data for the area demonstrating this finding can be found in the technical support document for this notice [Region 2 Docket No. NY34–1–198].

EPA has determined, through use of EPA's MOBILE computer model and air quality dispersion modeling, that the oxyfuel program is no longer necessary for New York because it has been demonstrated through technical analyses that attainment of the health-related CO NAAQS will not be violated anywhere in the area if the program is removed as a control strategy. By using these modeling tools, EPA has

[1] This area is comprised of counties in Northern New York, downstate New York and Southwestern Connecticut. The Connecticut portion of the area was redesignated to attainment on March 10, 1999 at 64 FR 12005. The remainder of the area is still designated nonattainment.

determined that improved CO levels are attributable primarily to three sources of emission reductions: (1) turnover of vehicle fleets in the area to more sophisticated cleaner technology vehicles; (2) implementation of reformulated gasoline year round; and (3) the recent implementation of the enhanced vehicle inspection and maintenance (I/M) program in New York (enhanced I/M in New Jersey is anticipated to begin this winter). This modeling, which is discussed in section 5.C of this notice and detailed in the technical support document, supports the conclusion that levels of CO meeting the NAAQS are able to be maintained without the wintertime oxyfuel program in place.

2. What Is the Oxygenated Gasoline Program and How Does It Apply to New York?

The oxygenated gasoline (oxyfuel) program is one of several programs designed to reduce CO pollution from gasoline powered vehicles including passenger cars, sport utility vehicles and light trucks, which, combined, are significant contributors of CO emissions. EPA established a NAAQS for CO for the protection of human health. *See* 40 CFR § 50.8; 50 FR 37501 (Sept. 13, 1985). The applicable CO NAAQS is 9 parts per million (ppm) CO averaged over an eight-hour period. Inhalation of CO results in inhibition of the blood's capacity to carry oxygen to organs and tissues. Persons with heart disease, infants, elderly persons, and individuals with respiratory diseases are particularly sensitive to CO. Effects of CO on healthy adults include impaired exercise capacity, visual perception, manual dexterity, learning functions, and ability to perform complex tasks.

The Clean Air Act sets forth a number of SIP requirements for states with areas designated as nonattainment for the CO NAAQS. Section 211(m) of the CAA requires states with CO nonattainment areas, having design values of 9.5 parts per million (ppm) CO or above for any two-year period after 1989, to implement oxyfuel programs. The requirement for an oxyfuel program is to apply during the high CO season, which is generally during the colder winter months when cars tend to have higher tailpipe CO emissions. Oxyfuel programs require that, during the high CO season, gasoline contain at least 2.7% oxygen by weight. This requirement was intended to assure more complete gasoline combustion, thus achieving a reduction in tailpipe emissions. It should be noted that the other programs, referenced previously, will continue to ensure CO concentrations remain at healthy levels.

The requirement for an oxyfuel program applies to certain counties in New York because portions of the State are included in the New York City CO nonattainment area which had a design value for CO above 9.5 ppm (that is, levels which exceed the NAAQS). The New York nonattainment area includes the counties of Bronx, Kings, Queens, New York, Richmond, Westchester and Nassau. Because the CAA section 211(m) requirement applies to the Consolidated Metropolitan Statistical Areas (CMSA) in which the nonattainment area is located, the oxyfuel requirement for the area applies throughout the larger CMSA. New York's portion of the larger CMSA, within which the sale of oxyfuel is required, consists of the following counties: Bronx, Kings, Queens, New York, Richmond, Orange, Rockland, Putnam, Westchester, Nassau and Suffolk.

On November 13, 1992, New York submitted to EPA its oxyfuel program contained in New York Subpart 225–3, ''Fuel Composition and Use—Gasoline'' (originally adopted September 17, 1992). On July 25, 1996, EPA approved New York's oxyfuel program into the SIP for the control period November 1 through the last day of February (61 FR 38594). EPA also approved Connecticut's oxyfuel program on that date for the same four-month control period (61 FR 38574). On February 12, 1996, EPA approved New Jersey's oxyfuel program into the State's SIP for that same control period (61 FR 5299). At the time of the New York and Connecticut approvals, EPA made a final determination that November 1 through the end of February is the control period when the New York City area is prone to high ambient CO concentrations (61 FR 38594).

3. What Is the Purpose and Content of New York's SIP Revision?

New York submitted a proposed CO SIP revision to EPA on August 30, 1999. That submittal proposes to revise the SIP to remove New York's oxyfuel program as a CO control measure. The submittal also proposes to: redesignate New York's portion of the New York City nonattainment area to attainment for CO, modify the Downtown Brooklyn Master Plan to remove certain transportation control measures that have not yet been implemented and are no longer necessary to provide for attainment in that area, and to establish transportation conformity emission budgets for CO. EPA is proposing action on these other proposed SIP revisions in a separate notice which will be published in the **Federal Register** shortly. Neither New York's redesignation request nor any of the other elements are directly related to, or required for, the action EPA is proposing today.

On September 7, 1999, the New York State Department of Environmental Conservation (NYSDEC) held a public hearing to take comment on the State's proposed SIP revision to remove its oxyfuel program from the applicable SIP and on its proposed redesignation request.

The August 30, 1999 CO SIP revision contains the following elements, on which EPA is proposing action today:

(1) Air quality monitoring data and modeling data demonstrating that the New York portion of the New York City nonattainment area attains the NAAQS for carbon monoxide, without oxyfuel benefits;

(2) The request to remove New York's oxyfuel program regulations from the applicable SIP.

Removal of the oxyfuel program is supported by the State's demonstration, using monitored air quality data and vehicle emission modeling data, that the area is attaining the CO NAAQS, and will continue to attain even without implementation of the oxyfuel program in the New York City area. In a similar proposal designed to remove New Jersey's oxyfuel program published on September 9, 1999 (64 FR 48790), EPA provided a discussion of an analysis of multi-state air quality and impacts of oxyfuel removal from the New York City area. The New Jersey proposal includes discussion of an analysis of certain congested intersections in New York City. In the New Jersey proposal, EPA concluded that based on the analyses, the area has been demonstrated to attain the CO NAAQS without oxyfuel anywhere in the New York City area. For further detail regarding analysis of that technical demonstration, the reader is referred to the September 9, 1999 New Jersey proposal at 64 FR 48790 and to the technical support document for today's proposal.

Based on EPA's determination that the New York City area is attaining the CO NAAQS, and the demonstration of maintenance for the area, EPA is proposing to approve New York's request to remove the State's oxyfuel program from its CO SIP.

4. What Is EPA's Authority for Approving Oxyfuel Removal?

Section 211(m) of the Clean Air Act (CAA) generally requires states to adopt oxygenated gasoline programs for certain areas that, as of 1990, failed to

meet the National Ambient Air Quality Standard (NAAQS) for carbon monoxide (CO). Section 211(m)(6) adds, however, that, ''Nothing in this subsection shall be interpreted as requiring an oxygenated gasoline program in an area which is *in attainment* for carbon monoxide * * *'' (emphasis added). EPA interprets section 211(m)(6) to mean that once it determines that a CO nonattainment area is actually attaining the CO NAAQS, the State would be allowed to submit a SIP revision to remove the oxyfuel program so long as the area continues to maintain the CO standard. A more detailed discussion of this interpretation, and EPA's authority to remove New York's oxyfuel program from the SIP, can be found in the September 9, 1999 New Jersey proposal (64 FR 48790).

5. How Have the Criteria for Oxyfuel Removal Been Met?

To determine if a state can remove its oxyfuel program prior to redesignation for attainment, certain criteria must be met. These criteria, which are derived directly from our policy for section 211(m)(6) (discussed at 64 FR 48790), are stated below. Following each is a brief discussion of how New York has met these criteria. A more detailed technical discussion can be found in the technical support document for this **Federal Register** document.

A. Is the Entire Designated Nonattainment Area Actually Attaining the CO NAAQS?

The entire New York City CO nonattainment area has attained the CO NAAQS since 1995. The applicable CO NAAQS is 9 ppm averaged over an eight-hour period. The last CO NAAQS violation occurred in 1994.[2] A summary and discussion of the air quality monitoring data, for New Jersey, New York and Connecticut, which shows that the entire three-state area has attained the CO NAAQS, can be found in the September 9, 1999 New Jersey proposal (64 FR 48790). Complete data and a detailed discussion of it can be found in the technical support document for this proposal.

B. Is the Program To Be Removed Already Approved Into the SIP? If so, Has the State Submitted a SIP Revision Request, Which Complies With CAA Section 110(l), To Remove the Oxyfuel Program From the SIP?

The oxyfuel program was approved into the New York SIP on July 25, 1996. Subsequently, New York submitted a SIP revision on August 30, 1999 to remove New York's oxyfuel program as a CO control measure from the SIP. CAA section 110(l) requires that a state's SIP revision cannot interfere with a state's attainment or rate of progress toward attainment. EPA has determined that New York's August 30, 1999 SIP revision meets the requirements of section 110(l) because it has been demonstrated that removal of the oxyfuel program from the SIP will not interfere with any state's CO attainment (see the following subsection). This action will also not interfere with any state's attainment of any other criteria pollutants.

C. Is Maintenance of the CO NAAQS, Without Implementation of Oxyfuel, Demonstrated for the Entire Area?

Attainment has been demonstrated in the entire area (New York, New Jersey and Connecticut) without the use of oxygenated fuels. New York submitted an attainment demonstration which shows that CO emissions will not exceed health-related air quality standards now or in the future. Levels in its portion of the area. In addition, EPA's proposed approval of removal of oxyfuel in New Jersey includes an analysis for certain congested intersections in New York City demonstrating attainment of the CO standard at those intersections without the oxyfuel program. A summary and discussion of the modeled air quality findings for the New Jersey, New York and Connecticut portions of the area can be found in the September 9, 1999 New Jersey proposal (64 FR 48790). Additional details regarding these analyses can be found in the technical support document for this notice.

6. How Is EPA Expediting the Processing of New York's Request?

This revision is being proposed using an expedited procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the State's procedures for revising its SIP. If the proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this document, EPA will publish a final rulemaking on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by New York and submitted formally to EPA for incorporation into the SIP.

7. Conclusion

EPA is proposing to approve New York's August 30, 1999 SIP revision to remove the State's oxygenated gasoline program from the federally approved State Implementation Plan. EPA's authority to approve removal of a state's oxyfuel program is set forth at Clean Air Act section 211(m)(6). EPA has determined that the criteria of section 211(m)(6) have been satisfied and removal of the oxyfuel program at this time is appropriate.

EPA is able to approve removal of the oxyfuel program in New York pursuant to CAA section 211(m)(6) only because EPA has determined that the area is actually attaining the CO NAAQS. In the unlikely event that the New York City CO nonattainment area subsequently records a violation of the CO NAAQS, EPA's basis for approving the removal of the oxyfuel program would no longer exist and the requirements of section 211(m) would again become effective for New York. This means that the State would need to implement an oxyfuel program in accordance with the requirements of CAA section 211(m).

8. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Orders on Federalism

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to

[2] A violation occurs when two non-overlapping exceedances are recorded at the same monitoring site during the same calendar year. An exceedance occurs when an average CO concentration greater than or equal to 9.5 ppm is recorded over an eight-hour period.

develop an effective process permitting elected officials and other representatives of state, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999),) which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, (52 FR 41685 (October 30, 1987),) on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only two states, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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 proposed SIP revision is not subject to Executive Order 13045 because it proposes approval of a state program revision, and it is not economically significant under Executive Order 12866.

D. Executive Order 13084

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. If EPA the mandate is unfunded, EPA must 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. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* versus *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated annual costs to State, local, or tribal governments, in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action does not include a federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action proposes to approve amendments to State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 29, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 99–26510 Filed 10–7–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98–54; FCC 99–258]

1998 Biennial Review—Part 76 Cable Television Service Pleading and Complaint Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: By this document, the Commission denies the petition by EchoStar Communications Corporation to reconsider changes made to the procedural rules for filing petitions and complaints pursuant to part 76.