pressure relief devices in light liquid or heavy liquid service; and instrumentation systems, except as specified in paragraphs (a)(6)(iii) through (v) of this section.

* * * * *

(v) Indications of liquids dripping, as defined in subpart H of this part, from packing glands for pumps in ethylene glycol service where the pump seal is designed to weep fluid shall not be considered to be a leak. Ethylene glycol dripping from pump seals must be captured in a catchpan and returned to the process.

* * * * *

[FR Doc. 01–19560 Filed 8–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–038–EXTa; FRL–7023–9]

Clean Air Act Promulgation of Extension of Attainment Date for the San Diego, California Serious Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is extending the attainment date for the San Diego serious ozone nonattainment area from November 15, 2000, to November 15, 2001. This extension is based in part on monitored air quality readings for the 1-hour national ambient air quality standard (NAAQS) for ozone during 2000. Accordingly, we are updating the table concerning attainment dates for the State of California. In this action, we are approving the State's request through a ''direct final'' rulemaking. Elsewhere in this **Federal Register**, we are proposing approval and soliciting written comment on this action; if adverse written comments are received, we will withdraw the direct final rule and address the comments received in a new final rule; otherwise no further rulemaking will occur on this attainment date extension request.

DATES: This direct final rule is effective October 5, 2001 unless before September 5, 2001 adverse comments are received. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register**, and inform the public that the rule will not take effect.

ADDRESSES: Please address your comments to the EPA contact below. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours. We may charge you a reasonable fee for copying parts of the docket. Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR–2),75 Hawthorne Street, San Francisco, CA 94105–3901.

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

California Air Resources Board, 1001 I Street Sacramento, CA 95812

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone: (415) 744–1288. E-mail: *jesson.david@epa.gov*

SUPPLEMENTARY INFORMATION:

Request for Attainment Date Extension for the San Diego Area

The San Diego serious ozone nonattainment area, which consists of San Diego County, is currently designated a serious ozone nonattainment area. The statutory ozone attainment date, as prescribed by section 181(a) of the Clean Air Act (''the Act''), was November 15, 1999. On May 15, 2000, the State of California requested a one-year attainment date extension to November 15, 2000. EPA granted that extension on October 11, 2000 (65 FR 60362). On February 7, 2001, California requested a second one-year extension to November 15, 2001.

CAA Requirements Concerning Designation and Classification

Section 107(d)(4) of the Act required the States and EPA to designate areas as attainment, nonattainment, or unclassifiable for ozone as well as other pollutants for which national ambient air quality standards (NAAQS) have been set. Section 181(a)(1) required that ozone nonattainment areas be classified as marginal, moderate, serious, severe, or extreme, depending on their air quality.

In a series of **Federal Register** documents, we completed this process by designating and classifying all areas of the country for ozone. *See, e.g.,* 56 FR 58694 (Nov. 6, 1991), and 57 FR 56762 (Nov. 30, 1992). San Diego County was originally classified as severe, but was reclassified as serious based upon our determination that the ozone value used in the original classification was incorrect. *See* 60 FR 3771 (Jan. 19, 1995).

Areas designated nonattainment for ozone are required to meet attainment dates specified under the Act. As noted, the San Diego ozone nonattainment area was reclassified as serious. By this classification, its attainment date became November 15, 1999. A discussion of the attainment dates is found in EPA's General Preamble for Implementation of Title I of the Clean Air Act Amendments of 1990. See 57 FR 13498 (April 16, 1992).

CAA Requirements Concerning Meeting the Attainment Date

Section 181(b)(2)(A) requires the Administrator, within six months of the attainment date, to determine whether ozone nonattainment areas attained the NAAQS. For ozone, we determine attainment status on the basis of the expected number of exceedances of the NAAQS over the three-year period up to, and including, the attainment date. See General Preamble, 57 FR 13506. In the case of serious ozone nonattainment areas, the three-year period is 1997–1999.

A review of the actual ambient air quality ozone data from the EPA Aerometric Information Retrieval System (AIRS) shows that three air quality monitors located in the San Diego ozone nonattainment area recorded exceedances of the NAAQS for ozone during the three-year period from 1997 to 1999 and the three-year period from 1998 to 2000.[1] (See Table 1.) Over the three-year period of 1997 to 1999, there were 9 exceedances at the Alpine monitor. There were 8 exceedances at the Alpine monitor for the period 1998 to 2000, all of which occured in 1998. For both of these three-year periods, this constitutes a violation of the ozone NAAQS for the San Diego area, since the average annual exceedance at the Alpine monitor is more than 1.0. Thus, the area met neither the November 15, 1999 attainment date nor the November 15, 2000 extended attainment date, and the area continues to violate the 1-hour ozone NAAQS because of multiple exceedances recorded in 1998, which must be included in the calculation of average annual exceedances over the most recent 3-year period.

[1] AIRS Data Monitor Values Reports are available electronically at http://www.epa.gov/airsdata/monvals.htm.

TABLE 1.—EXCEEDANCES OF THE 1-HOUR OZONE NAAQS IN SAN DIEGO 1997–2000

[Source: AIRS]

Monitoring station	Exceedances				
	1997	1998	1999	2000	Total 1998–2000
Chula Vista	0	0	0	0	0
El Cajon	0	1	0	0	1
Oceanside	0	0	0	0	0
San Diego (Overland)	0	1	0	0	1
Del Mar	0	0	0	0	0
Escondido	0	0	0	0	0
Alpine	1	8	0	0	8
San Diego (12th St.)	0	0	0	0	0
Camp Pendleton	0	0	0	0	0
Otay Mesa	0	0	0	0	0

CAA Provisions Authorizing a One-Year Extension of the Attainment Date

CAA section 181(b)(2)(A) states that, for areas classified as marginal, moderate, or serious, if the Administrator determines that the area did not attain the standard by its attainment date, the area must be reclassified upwards. However, CAA section 181(a)(5) provides an exemption from these bump up requirements. Under this exemption, we may grant up to 2 one-year extensions of the attainment date under specified conditions:

Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the ''Extension Year'') the date specified in table 1 of paragraph (1) of this subsection if—

(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

(B) no more than 1 exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

We interpret this provision to authorize the granting of a one-year extension under the following minimum conditions: (1) The State requests a one-year extension; (2) all requirements and commitments in the EPA-approved SIP for the area have been complied with; and (3) The area has no more than one measured exceedance of the NAAQS during the year at any one monitor that includes the attainment date (or the subsequent year, if a second one-year extension is requested).

EPA Action

We have determined that the requirements for a second one-year extension of the attainment date have been fulfilled as follows:

(1) California has formally submitted the attainment date extension request, in a letter dated February 7, 2001, from Michael P. Kenny, Executive Officer, California Air Resources Board, to Laura Yoshii, Acting Regional Administrator, EPA Region 9.

(2) California is currently implementing the EPA-approved SIP. The State's letter, cited above, discusses implementation of State measures in the SIP, and shows that these measures plus new State measures have achieved an overall surplus of emission reductions beyond those assumed in the SIP. The State also attached a letter dated December 4, 2000, from R.J. Sommerville, Director, San Diego County Air Pollution Control District, which states that the District continues to fully implement the SIP.

(3) California has certified that the area has monitored no exceedances during 2000. This is also reflected in the quality-assured ambient ozone data shown in Table 1 above.

Because the statutory provisions have been satisfied, we approve California's attainment date extension request for the San Diego ozone nonattainment area. As a result, the chart in 40 CFR 81.305 entitled ''California—Ozone'' is being modified to extend the attainment date for the San Diego ozone nonattainment area from November 15, 2000, to November 15, 2001.

We are approving the attainment date extension without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, elsewhere in the proposed rule section of today's **Federal Register** we are publishing a proposal to approve this part 81 action should adverse or critical comments be filed. This action will be effective October 5, 2001 unless before September 5, 2001 adverse or critical comments are received.

If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on October 5, 2001.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13211

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 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 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 rule 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, because it merely approves a state request for an attainment date extension, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

F. 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.

Extension of an area's attainment date under the CAA does not impose any new requirements on small entities. Extension of an attainment date is an action that affects a geographical area and does not impose any regulatory requirements on sources. EPA certifies that the approval of the attainment date extension 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 Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. 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 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 approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves a State request for an attainment date extension, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 5, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: July 25, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

Part 81 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.305 the ''California-ozone'' table is amended by revising the entry for San Diego area to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—OZONE

[1-Hour Standard]

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
* * * * * * *				
San Diego Area:				
San Diego County	11/15/90	Nonattainment	2/21/95	Serious[2]
* * * * * * *				

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date is extended to November 15, 2001.

* * * * *

[FR Doc. 01–19456 Filed 8–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7025–1]

Wyoming: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On February 25, 1999, EPA Region VIII published an Immediate Final Rule at 64 FR 09278 authorizing changes to Wyoming's hazardous waste program under the Resource Conservation and Recovery Act (RCRA). At that time, we determined that the changes to Wyoming's hazardous waste program satisfied all requirements for final authorization and authorized the changes through an Immediate Final Rule. The Immediate Final Rule was to be effective on April 26, 1999 unless significant written comments opposing the authorization were received during the comment period. At the same time, in the event we received written comments, we also published a Proposed Rule at 64 FR 09295 to authorize these same changes to the Wyoming hazardous waste program.

As a result of comments received on the Immediate Final Rule and the passage of Wyoming Senate File 147 (SF 147), we withdrew the Immediate Final Rule on April 23, 1999 at 64 FR 19925, reopened the Public Comment Period until July 22, 1999 at 64 FR 19968, and went forward with the Proposed Rule. In addition, we held Public Hearings on June 29 and 30, 1999. By today's action, we are issuing a Final Rule authorizing the changes to the Wyoming hazardous waste program as listed in the Immediate Final Rule at 64 FR 09278 and responding below to all of the comments received.

DATES: This authorization will be effective on August 6, 2001.

ADDRESSES: You can view and copy Wyoming's application at the following addresses: EPA Region VIII, from 8:00 AM to 4:00 PM, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, contact: Kris Shurr, phone number: (303) 312–6139; or Wyoming Department of Environmental Quality (WDEQ), from 8:00 AM to 5:00 PM, 122 W. 25th Street, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, EPA Region VIII, 999 18th Street, Suite 300, Denver, CO 80202–2466, Phone (303) 312–6139.

SUPPLEMENTARY INFORMATION: The reader should also refer to the Proposed Rule at 64 FR 09295 and the Immediate Final Rule at 64 FR 09278, both published on February 25, 1999.

We received written comments from twenty-eight parties during the comment period; six recommended we grant authorization; ten requested that we withhold approval of Wyoming's authorization revision until SF 147 could be revised; and four requested that we withdraw the State's RCRA primacy.

The majority of commenters expressed concerns over a potential loss of environmental protections due to the passage of SF 147. We agreed with the concerns regarding the ability of