

authority to revoke the 1-hour standard is stayed:

until such time as EPA issues a final rule revising or reinstating such authority and considers and addresses in such rulemaking any comments concerning (1) which, if any, implementation activities for a revised ozone standard (including but not limited to designation and classification of areas) would need to occur before EPA would determine that the 1-hour ozone standard no longer applies to an area, and (2) the effect of revising the ozone NAAQS on the existing 1-hour ozone designations.

Another commenter raises additional issues that are not directly implicated by the limited action EPA is taking here to stay its authority to revoke the 1-hour standard. Specifically, the commenter recommends that (1) EPA not require areas to update maintenance plans for the 1-hour standard but rather be allowed to commit to submit plans for the 8-hour standard; (2) EPA revoke the 1-hour ozone standard after the 8-hour standard is fully enforceable and the designation and classification process for the 8-hour standard is complete; and (3) EPA issue its guidance for implementing the 8-hour NAAQS as quickly as possible so that areas may consider such guidance in making recommendations regarding designations for the 8-hour NAAQS. The EPA intends to issue its rulemaking and guidance regarding 8-hour NAAQS implementation as expeditiously as possible. It is in that rulemaking that EPA will consider the other issues raised by the commenter: whether areas will have an ongoing obligation to update 1-hour maintenance plans and the time at which the 1-hour standard should be revoked.

#### IV. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is “significant” and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a “significant regulatory action” as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this action is not a “significant regulatory action” and was not submitted to OMB for review.

##### B. Paperwork Reduction Act

This final rule does not contain any information collection requirements which require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

##### C. Regulatory Flexibility Act (RFA)

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 final rule on small entities, small entity is defined as: (1) A small business as defined in the Small Business Administration’s 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 final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

This final action will not impose any requirements on small entities. This final action stays EPA’s regulatory authority to determine the 1-hour standard no longer applies to an area, which authority was based on EPA’s determining that the 1-hour standard has been attained. It does not establish requirements applicable to small entities.

##### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable laws. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This final action 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 UMRA. Because today’s action does not create any additional mandates, no further UMRA analysis is needed.

##### E. 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