

**Authority:** 36 Stat. 861; 78 Stat. 241, 253, 257; 45 Stat. 750 (25 U.S.C. 47; 42 U.S.C. 2000e(b), 2000e-2(i); 23 U.S.C. 101(a), 202, 204), unless otherwise noted.

2. Revise § 170.4b to read as follows:

**§ 170.4b What formula will BIA use to distribute the remaining 25 percent of fiscal year 2001 Indian Reservation Roads program funds?**

On March 29, 2001 we will distribute the remaining 25 percent of fiscal year 2001 IRR program funds authorized under Section 1115 of the Transportation Equity Act for the 21st Century, Public Law 105-178. We will distribute the funds to Indian Reservation Roads projects on or near Indian reservations using the relative need formula established and approved in January 1993. The formula has been modified to account for non-reporting states by inserting the latest data reported for those states for use in the relative need formula process. Of this remaining 25 percent of fiscal year 2001 IRR program funds, \$19.53 million is available for immediate distribution to provide for up to \$35,000 for each tribe for administrative capacity building and other eligible transportation activities based on approved contracts, agreements, or requests for such funds by the deadline of May 15, 2001.

Dated: March 23, 2001.  
**James H. McDivitt**,  
*Deputy Assistant Secretary—Indian Affairs (Management)*.  
 [FR Doc. 01-7744 Filed 3-28-01; 8:45 am]  
**BILLING CODE 4310-02-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**  
**[CA 179-0275; FRL-6954-9]**

**Revisions to the California State Implementation Plan, Bay Area Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing a limited approval and limited disapproval of revisions to the Bay Area Air Quality Management District (BAAQMD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on July 24, 1997 and concerns oxides of nitrogen (NO<sub>x</sub>) and carbon monoxide (CO) emissions from boilers, steam generators and process heaters in petroleum refineries. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates these emission sources

and directs California to correct rule deficiencies.  
**EFFECTIVE DATE:** This rule is effective on April 30, 2001.

**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:  
 Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901  
 Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460  
 California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814  
 Bay Area AQMD, 939 Ellis Street, San Francisco, CA 94109-7799

**FOR FURTHER INFORMATION CONTACT:** Ed Addison, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1160.

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

**I. Proposed Action**

On July 24, 1997, 62 FR 39795, EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule#	Rule title	Adopted	Submitted
BAAQMD .....	9.10	Nitrogen Oxides and Carbon Monoxide from Boilers, Steam Generators and Process Heaters in Petroleum Refineries.	01/05/94	07/23/96

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

Rule does not specify any test method for determination of compliance with the NO<sub>x</sub> emission limit, and does not require recordkeeping to demonstrate compliance with the emission rate.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

**II. Public Comments and EPA Responses**

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

**III. EPA Action**

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18

months of the effective date of this action. These sanctions will be imposed under section 179 of the Act according to 40 CFR 52.31. In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rule has been adopted by the BAAQMD, and EPA's final limited disapproval does not prevent the local agency from enforcing it.

**IV. Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements

beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under

the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 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 action is not a "major rule" as defined by 5 U.S.C. section 804(2).

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 May 29, 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 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 6, 2001.

**Michael Schulz,**

*Acting Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

#### Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(239)(i)(E)(6) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(239) \* \* \*

(i) \* \* \*

(E) \* \* \*

(6) Rule 9–10 adopted on January 5, 1994.

\* \* \* \* \*

[FR Doc. 01-7792 Filed 3-28-01; 8:45 am]

BILLING CODE 6560-50-P

## CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

### 40 CFR Part 1602

#### Privacy Act of 1974; Implementation

**AGENCY:** Chemical Safety and Hazard Investigation Board.

**ACTION:** Final rule.

**SUMMARY:** The Chemical Safety and Hazard Investigation Board adopts regulations for handling requests made under the Privacy Act. The Privacy Act requires Federal agencies to create regulations establishing procedures for its implementation. These regulations will ensure the proper handling and preservation of agency records subject to the Privacy Act. A Notice of Systems of Records is published elsewhere in this issue of the **Federal Register**.

**DATES:** This rule is effective April 30, 2001.

**FOR FURTHER INFORMATION CONTACT:** Christopher Kirkpatrick, 202-261-7619.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of December 27, 2000 (65 FR 81810), the Chemical Safety and Hazard Investigation Board published a proposed rule setting forth its proposed procedures for the implementation of the Privacy Act of 1974. The proposed rule provided for a 30-day comment period. No comments were received in response to the proposed rule and invitation for comments. This final rule is unchanged from the proposed rule.

The Chemical Safety and Hazard Investigation Board is concurrently publishing a Notice of Systems of Records in the Notices section of this issue of the **Federal Register**.

These regulations implement the Privacy Act of 1974, 5 U.S.C. 552a. The Board adopts the following set of regulations to discharge its responsibilities under the Privacy Act. The Privacy Act establishes: Basic procedures for individuals' access to all records in systems of records maintained by the Chemical Safety and Hazard Investigation Board ("CSB" or "Board") that are retrieved by an