

under such plans, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the regulation effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

**List of Subjects in 29 CFR Part 4044**

Pension insurance, Pensions.  
In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

**PART 4044—[AMENDED]**

1. The authority citation for part 4044 continues to read as follows:

**Authority:** 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. Appendix D to part 4044 is amended by removing Table I-97 and adding in its place Table I-98 to read as follows:

**APPENDIX D TO PART 4044—TABLES USED TO DETERMINE EXPECTED RETIREMENT AGE**

**TABLE I-98.—SELECTION OF RETIREMENT RATE CATEGORY**

[For Plans with valuation dates after December 31, 1997, and before January 1, 1999]

Participant reaches URA in year—	Participant's retirement Rate category is—			
	Low <sup>1</sup> if monthly benefit at URA is less than—	Medium <sup>2</sup> if monthly benefit at URA is		High <sup>3</sup> if monthly benefit at URA is greater than—
		From	To	
1999 .....	419	419	1,766	1,766
2000 .....	431	431	1,814	1,814
2001 .....	442	442	1,863	1,863
2002 .....	454	454	1,913	1,913
2003 .....	466	466	1,965	1,965
2004 .....	479	479	2,018	2,018
2005 .....	492	492	2,072	2,072
2006 .....	505	505	2,128	2,128
2007 .....	519	519	2,186	2,186
2008 or later .....	533	533	2,245	2,245

<sup>1</sup> Table II-A.

<sup>2</sup> Table II-B.

<sup>3</sup> Table II-C.

\* \* \* \* \*

Issued at Washington, D.C., this 10th day of December, 1997.

**David M. Strauss,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 97-32734 Filed 12-12-97; 8:45 am]

BILLING CODE 7708-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 179-0061; FRL-5929-9]

**Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Bay Area Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on April 17, 1997. The revisions concern rules from the Bay Area Air Quality Management District (BAAQMD). This approval

action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of oxides of nitrogen (NO<sub>x</sub>) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules concern the control of NO<sub>x</sub> emissions from boilers, steam generators, process heaters, stationary internal combustion engines, stationary gas turbines, and glass melting furnaces in the San Francisco Bay area. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA actions on SIP submittals, and SIPs for national primary and secondary ambient air quality standards. The rules are being approved into the SIP in accordance with the area's ozone maintenance plan for redesignation to attainment.

**DATES:** This action is effective on January 14, 1998.

**ADDRESSES:** Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are

available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Bay Area Air Quality Management District, Rule Development Section, 939 Ellis Street, San Francisco, CA 94109.

**FOR FURTHER INFORMATION CONTACT:** Thomas C. Canaday, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1202.

**SUPPLEMENTARY INFORMATION:**

**I. Applicability**

The BAAQMD rules being approved into the California SIP include: Regulation 9, Rule 7, Nitrogen Oxides and Carbon Monoxide from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters;

Regulation 9, Rule 8, Nitrogen Oxides and Carbon Monoxide Emissions from Stationary Internal Combustion Engines; Regulation 9, Rule 9, Nitrogen Oxides from Stationary Gas Turbines; and Regulation 9, Rule 12, Nitrogen Oxides from Glass Melting Furnaces.

These BAAQMD rules were adopted on September 15, 1993, January 20, 1993, September 21, 1994 and January 19, 1994, respectively. They were submitted by the State of California on July 23, 1996. The rules were found to be complete on January 17, 1997, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V<sup>1</sup>. EPA is taking final action to approve all four rules into the SIP.

## II. Background

On April 17, 1997 in 62 FR 18730, EPA proposed to approve the following rules into the California SIP: Regulation 9, Rule 7, Nitrogen Oxides and Carbon Monoxide from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters; Regulation 9, Rule 8, Nitrogen Oxides and Carbon Monoxide Emissions from Stationary Internal Combustion Engines; Regulation 9, Rule 9, Nitrogen Oxides from Stationary Gas Turbines; and Regulation 9, Rule 12, Nitrogen Oxides from Glass Melting Furnaces. While the BAAQMD was no longer required to submit NO<sub>x</sub> RACT rules pursuant to section 182(b)(2), the BAAQMD incorporated several of the previously submitted NO<sub>x</sub> rules as contingency measures in its ozone maintenance plan as a requirement for redesignation to attainment. Since being redesignated to attainment of the ozone standard, the Bay Area has recorded violations of the Federal ozone standard, therefore triggering the contingency measures of the maintenance plan. In accordance with the redesignation maintenance plan, and at the request of the BAAQMD, EPA is incorporating the NO<sub>x</sub> measures into the SIP. The BAAQMD submitted the contingency measures being acted on in this document on July 23, 1996. This action encompasses part of the measures identified in the plan as contingency measures. A detailed discussion of the background for each of the above rules is provided in the proposed rule cited above.

EPA has evaluated the above rules for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as

<sup>1</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

expressed in the various EPA policy guidance documents referenced in the proposed rule cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in the proposed rule and in the technical support document (TSD), dated January 24, 1997, which is available at EPA's Region IX office.

## III. Response to Public Comments

A 30-day public comment period was provided in 62 FR 18730. The four rules in the present action, along with one additional rule (BAAQMD Regulation 9, Rule 11) were the subject of a prior direct final action. See 62 FR 18710 (April 17, 1997). EPA received adverse comments on Regulation 9, Rule 11 only. Consequently the previous direct final action was withdrawn. See 62 FR 32687 (June 17, 1997). EPA will address the comments received in a subsequent final action concerning Regulation 9, Rule 11 only in the near future.

## IV. EPA Action

EPA is finalizing this action to approve the above rules for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of NO<sub>x</sub> in accordance with the requirements of the CAA.

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.

## V. Administrative Requirements

### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small

businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air 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 impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a 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).

### C. 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 pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*E. 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 February 13, 1998. 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, Volatile organic compounds.

**Note:** Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: November 13, 1997.

**Harry Seraydarian,**  
*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) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (239) \* \* \*
- (i) \* \* \*

(E) Bay Area Air Quality Management District.

(1) Rule 9-7 adopted on September 15, 1993, Rule 9-8 adopted on January 20, 1993, Rule 9-9 adopted on

September 21, 1994, and Rule 9-12 adopted on January 19, 1994.

\* \* \* \* \*

[FR Doc. 97-32561 Filed 12-12-97; 8:45 am]

BILLING CODE 6560-50-F

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[MT-001-0002a, MT-001-0003a; FRL-5934-5]

**Approval and Promulgation of Air Quality Implementation Plans; Montana; 1990 Base Year Emission Inventories for Montana**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the 1990 base year carbon monoxide (CO) emission inventories for Missoula, Billings, and Great Falls that were submitted by the State to satisfy certain requirements of the Clean Air Act (CAA), as amended in 1990.

**DATES:** This final rule is effective February 13, 1998 unless adverse or critical comments are received by January 14, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be addressed to: Richard R. Long, Director, Air Program (8P2-A), United States Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202-2466.

Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 8, Air Program, 999 18th Street, suite 500, Denver, Colorado 80202-2466.

**FOR FURTHER INFORMATION CONTACT:** Tim Russ, Air Program (8P2-A), United States Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202-2466, ph. (303) 312-6479.

**SUPPLEMENTARY INFORMATION:**

**I. Background to the Action**

As required by the CAA, States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment.

Those States containing moderate and serious carbon monoxide nonattainment areas were required under Section 187(a)(1) of the CAA to submit by November 15, 1992, a comprehensive, accurate, and current inventory of actual CO season emissions from all sources for each nonattainment area (see 57 FR 13530, April 16, 1992). This requirement applies to Missoula. "Not Classified" CO nonattainment areas, like Billings and Great Falls, were required to submit their inventories by November 15, 1993 (see 57 FR 13535, April 16, 1992). Stationary point sources, stationary area sources, on-road mobile, and non-road mobile sources of carbon monoxide (CO) were to be included in each inventory. This inventory, for calendar year 1990, was denoted as the base year inventory.

The 1990 base year inventory is the primary inventory from which any periodic and/or modeling inventory is derived. Further information on these inventories and their purpose can be found in the document "Emission Inventory Requirements for Carbon Monoxide State Implementation Plans," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, dated March, 1991.

The 1990 base year inventory was to address actual CO emissions for the area during the peak CO season. The peak CO season should reflect the months when peak CO concentrations occur. For areas where winter is the peak CO season, as is the case for Missoula, Billings, and Great Falls, the 1990 base year inventory was to include the period November 1989 through January 1990.

The air quality planning requirements for base year inventories for CO nonattainment areas are set out in sections 172(c) and 187(a)(1) of Title I of the CAA. EPA issued a General Preamble describing EPA's interpretation as to how EPA intended to review SIP revisions submitted under Title I of the CAA which included requirements for the preparation of the 1990 base year inventory (57 FR 13529, April 16, 1992, and 57 FR 18070, April 28, 1992). Because EPA is describing its interpretations in this action only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this action and its supporting rationale. Available EPA guidance documents, for preparing emission inventories, were referenced in the General Preamble (57 FR 13498, April 16, 1992).