sector. This interim final rule will not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Federalism and Consultation and Coordination with Tribal Governments

The Department has considered this interim final rule under the requirements of Executive Orders 12612 and 13132 and concluded that the rule does not have substantial direct effects on (1) the States, (2) on the relationship between the national government and the States, or (3) on the distribution of power and responsibilities among the various levels of government. Therefore, the Department has determined that no further assessment of federalism implications is necessary at this time.

Additionally, this interim final rule does not have tribal implications as defined in Executive Order 13175 and, therefore, advance consultation with tribes was not required.

Controlling Paperwork Burdens on the Public

This interim final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

Energy Effects

This interim final rule has been reviewed under Executive Order 13211 of May 18, 2001, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' It has been determined that this rule does not constitute a significant energy action as defined in the Executive Order. This interim final rule merely extends a compliance date and allows the option of using the 1982 or the 2000 planning regulations to guide the amendment or revision of National Forest System land and resource management plans.

List of Subjects in Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, Forest and forest products, National forests, Natural resources, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, part 219 of title 36 of the Code of Federal Regulations is amended as follows:

PART 219–PLANNING

Subpart A—National Forest System Land and Resource Management Planning

1. The authority citation for subpart A continues to read as follows:

Authority: 5 U.S.C. 301; and Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613).

2. Revise paragraph (b) of § 219.35 to read as follows:

§ 219.35 Transition.

* * * * *

(b) Until the Department promulgates the revised final planning regulations announced in the December 3, 2001, Semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions, a responsible official may elect to continue or to initiate new plan amendments or revisions under the 1982 planning regulations in effect prior to November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2001), or the responsible official may conduct the amendment or revision process in conformance with the provisions of this subpart. For the purposes of this paragraph, the reference to initiation of a plan amendment or revision means that the agency has issued a Notice of Intent or other public notification announcing the commencement of a plan amendment or revision as provided for in the Council on Environmental Quality regulations at 40 CFR 1501.7 or in Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook, section 11.

* * * * *

Dated: May 10, 2002.

David P. Tenny,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 02–12508 Filed 5–17–02; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 245–0311a; FRL–7202–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Bay Area Air Quality Management District (BAAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of nitrogen oxides (NO_X) and carbon monoxide (CO) from electric power generating steam boilers. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on July 19, 2002, without further notice, unless EPA receives adverse comments by June 19, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted SIP revision at the following locations:

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 Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

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

Table of Contents

I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local Agency	Rule No.	Rule Title	Adopted	Submitted
BAAQMD	9–11	Nitrogen Oxides and Carbon Monoxide From Electric Power Generating Steam Boilers.	05/17/00	12/11/00

On February 8, 2001, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

The previous version of Rule 9–11 is SIP Rule 9–11, Nitrogen Oxides and Carbon Monoxide From Utility Electric Power Generating Boilers, approved into the SIP on July 31, 1998 (63 FR 40828).

C. What are the Changes in the Submitted Rule?

BAAQMD Rule 9–11 regulates NO_X and CO emissions from electric power generating steam boilers down to a rating of 250 million Btu per hour (MM Btu/hr). We approved an earlier version of Rule 9–11 into the California SIP. The submitted Rule 9–11 includes changes necessary to ensure that the rule continues to be as effective in reducing emissions from power plants under the deregulated electricity market in California as had been anticipated when the original Rule 9–11 was drafted and submitted to EPA for approval into the SIP. Specifically, the existing Rule 9–11 applies to electric power generating steam boilers owned and/or operated by a California Public Utilities Commission (CPUC) regulated utility. In the wake of deregulation of certain aspects of the California electricity market and the corresponding change in the role of the CPUC, the number of such boilers has decreased and will eventually be zero, which will diminish the enforceability of the rule by EPA or citizens. The submitted Rule 9–11 deletes the references to utilities or the CPUC that are found in the existing SIP Rule 9–11 and simply refers to all electric power generating steam boilers of a certain size or greater in the BAAQMD, thereby retaining the regulatory support for emission reductions assumed to be a part of the SIP.

II. EPA's Evaluation and Action

A. How is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). The BAAQMD regulates an area designated as a nonattainment area for ozone, and such areas must comply with title I, part D, subpart 1 of the CAA, which includes section 172(c)(1). accordance with subpart 1, section 172(c)(1) of the CAA. This section requires that the BAAQMD adopt RACM that, at a minimum, includes RACT. However, there are no specific mandatory NO_X measures that must be adopted under section 172(c)(1). In addition, ozone isopleths developed by the BAAQMD have shown that additional NO_X control would be disbeneficial in reducing peak ozone concentrations in Livermore Valley, the subarea from which the most ozone violations are recorded and from which the regional ozone attainment strategy derives. See figure 3, on page 17, of the *San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard,* BAAQMD (June 1999) and figures 3 and 6, on pages 18 and 21, respectively, of the *Revised San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard,* BAAQMD (October 24, 2001). Therefore, requiring more stringent NO_X controls is not required to fulfill RACM/RACT requirements under section 172(c)(1) of the CAA.

Guidance and policy documents that we used include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24,1987 Federal Register Document,* (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
- State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown, U.S. EPA (September 20, 1999).
- Alternative Control Techniques Document—NO_X Emissions From Utility Boilers, U.S. EPA, Office of Air Quality Planning and Standards (March 1994).

B. Does the Rule Meet the Evaluation Criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and RACM/RACT requirements. The TSD has more information on our evaluation.

C. EPA Recommendations for the Next Rule Revision

The following are not grounds for disapproval at this time, but should be corrected in the next rule revision:

- The ammonia test method should not allow for the approval by the APCO of an unspecified alternate test method.
- The exemption from the NO_X emission standards during startup can continue indefinitely if an unspecified catalytic reaction temperature is not reached. A maximum limit for the startup time or the means of determining the applicable catalytic reaction temperature should be stated.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by June 19, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on July 19, 2002. This action will incorporate BAAQMD Rule 9–11, adopted on May 17, 2000 into the federally enforceable SIP and thereby supercede the existing SIP Rule 9–11, approved into the SIP on July 31, 1998 (63 FR 40828).

III. Background Information

Why Was This Rule Submitted?

NO_X helps produce ground-level ozone, smog, and particulate matter which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_X emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency NO_X rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

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. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). 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 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action 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 CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (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 CAA. 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 CAA. 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. 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. 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. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 19, 2002. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: April 11, 2002.

Nora L. McGee,

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)(285)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(285) * * *

(C) Bay Area Air Quality Management District.

(*1*) Rule 9–11, adopted on May 17, 2000.

* * * * *

[FR Doc. 02–12410 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN66–01–7291a; FRL–7206–3]

Approval and Promulgation of State Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency is approving a site-specific revision to the Minnesota Sulfur Dioxide (SO_2) State Implementation Plan (SIP) for Marathon Ashland Petroleum, LLC. (Marathon Ashland). By its submittal dated February 6, 2000, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve Marathon Ashland's Title V Operating Permit into the Minnesota SO_2 SIP and remove the Marathon Ashland Administrative Order from the state SO_2 SIP. The request is approvable because it satisfies the requirements of the Clean Air Act (Act). The rationale for the approval and other information are provided in this notice.

DATES: This direct final rule will be effective July 19, 2002, unless EPA receives adverse comment by June 19, 2002. If EPA receives adverse comments, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the documents relevant to this action are available for inspection during normal business hours at the above address. (Please telephone Christos Panos at (312) 353–8328, before visiting the Region 5 office.)

A copy of the SIP revision is available for inspection at the Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), Room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR–18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

I. General Information

1. What Action Is EPA Taking Today?

In this action, EPA is approving into the Minnesota SO $_2$ SIP certain portions of the Title V permit for Marathon Ashland, located in the cities of St. Paul Park and Newport, Washington County, Minnesota. Specifically, EPA is only approving into the SIP those portions of the permit cited as ''Title I condition: SIP for SO_2 NAAQS 40 CFR pt.50 and Minnesota State Implementation Plan (SIP).'' In this same action, EPA is removing the Marathon Ashland Administrative Order from the state SO_2 SIP.

2. Why Is EPA Taking This Action?

EPA is taking this action because the state's request does not change any of the emission limitations currently in the SIP or their accompanying supportive documents, such as the SO_2 air dispersion modeling. The revision to the SIP does not approve any new construction or allow an increase in emissions, thereby providing for attainment and maintenance of the SO_2 National Ambient Air Quality Standards (NAAQS) and satisfying the applicable SO_2 requirements of the Act. The only change to the SO_2 SIP is the enforceable document for Marathon Ashland, from the Administrative Order to the federal Title V permit.

II. Background on Minnesota Submittal

1. What Is the Background for This Action?

Marathon Ashland is located in the cities of St. Paul Park and Newport, Washington County, Minnesota. Monitored violations of the primary SO_2 NAAQS from 1975 through 1977 led EPA to designate Air Quality Control Region (AQCR) 131 as a primary SO_2 nonattainment area on March 3, 1978 (43 FR 8962). AQCR 131 includes Washington County. In response to Part D requirements of the Clean Air Act, MPCA submitted an SO_2 plan on August 4, 1980. EPA approved the Minnesota Part D SO_2 SIP for AQCR 131 on April 8, 1981 (46 FR 20996).

The promulgation of the Stack Height Rule on July 8, 1985, required MPCA to review existing emission limitations to determine if any sources were affected by the new Rule. The MPCA determined that Marathon Ashland would require additional permit revisions due to modeled violations of the SO_2 NAAQS using the reduced creditable stack heights. A SIP revision for Marathon Ashland was submitted on June 30, 1987, which MPCA later withdrew because the company could not meet one of the emission limits listed in the permit.

On December 11, 1992, the MPCA submitted an SO_2 SIP revision for the St. Paul Park/Ashland area, which included an administrative order for Marathon Ashland. Minnesota submitted a revised plan on September 30, 1994, in response to changes EPA required to the proposed SIP revision before it could be approved. EPA approved the St. Paul Park/Ashland SO_2 SIP on January 18, 1995 (60 FR 3544).

The state requested that portions of Dakota and Washington Counties (the areas surrounding Marathon Ashland) be redesignated to attainment of the SO_2 NAAQS on October 31, 1995. EPA approved the St. Paul Park Area redesignation request on May 13, 1997 (62 FR 26230).

On December 31, 1998, the MPCA submitted to EPA Amendment Four to Marathon Ashland's order as a site-specific SO_2 SIP revision. EPA determined that Amendment Four to Marathon Ashland's order provided for attainment and maintenance of the SO_2 NAAQS and approved the revised order into the state SIP on August 16, 1999 (64 FR 44408).

2. What Information Did Minnesota Submit, and What Were its Requests?

The SIP revision submitted by MPCA on February 6, 2000, consists of a Title V operating permit issued to Marathon Ashland. The state has requested that EPA approve the following:

(1) The inclusion into the Minnesota SO $_2$ SIP only the portions of the NSP Riverside Plant Title V permit cited as ''Title I condition: SIP for SO_2 NAAQS