

protection of the revenue. The likely respondents are business or other for-profit institutions.

*Estimated annual reporting and/or recordkeeping burden:* one hour.

*Estimated average annual burden per respondent/recordkeeper:* one hour.

*Estimated number of respondents and/or recordkeepers:* one.

*Estimated annual frequency of responses:* one.

Comments concerning suggestions for reducing the burden of the collections of information should be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229. A copy should also be sent to U.S. Customs Service, Information Services Group, Attention: J. Edgar Nichols, Room 3.2-C, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Drafting Information: The principal author of this document was Larry L. Burton, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

#### List of Subjects in 19 CFR Part 4

Customs duties and inspection, Entry, Inspection, Merchandise, Reporting and recordkeeping requirements, Vessels.

#### Proposed Amendments to the Regulations

It is proposed to amend part 4, Customs Regulations (19 CFR part 4), as set forth below.

#### PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 as well as the specific authority citation for § 4.39 would continue to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91;

\* \* \* \* \*

Section 4.39 also issued under 19 U.S.C. 1446;

\* \* \* \* \*

2. It is proposed to amend § 4.39 by adding a new paragraph (g) to read as follows:

#### § 4.39 Stores and equipment of vessels and crews' effects; unloading or lading and retention on board.

\* \* \* \* \*

(g) Equipment of a vessel arriving either directly or indirectly from a foreign port or place, if in need of

repairs in the United States, may be unladen from and reladen upon the same vessel under the procedures set forth in § 4.30 relating to the granting of permits and special licenses on Customs Form 3171 (CF 3171). Adequate protection of the revenue is insured under the appropriate International Carrier Bond during the period that equipment is temporarily landed for repairs (see § 113.64(b) of this chapter), and so resort to the procedures established for the temporary importation of merchandise under bond is unnecessary. Once equipment which has been unladen under the terms of a CF 3171 has been reladen on the same vessel, potential liability for that transaction existing under the bond will be extinguished.

Approved: February 23, 1999.

**Raymond W. Kelly,**  
*Commissioner of Customs.*

**John P. Simpson,**  
*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. 99-6640 Filed 3-17-99; 8:45am]

BILLING CODE 4820-02-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[CA 210-0118; FRL-6310-8]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) for the South Coast Air Quality Management District ("SCAQMD"). SCAQMD Rule 1110.2, concerns the control of oxides of nitrogen (NO<sub>x</sub>) emissions from gaseous and liquid fueled stationary and portable internal combustion engines.

The intended effect of proposing limited approval and limited disapproval of this rule is to regulate emissions of NO<sub>x</sub> in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the federally approved SIP. EPA has evaluated the rule and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking

authority because these revisions, while strengthening the SIP, do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

**DATES:** Comments must be received on or before April 19, 1999.

**ADDRESSES:** Comments may be mailed to: Andrew Steckel, Rulemaking Office [AIR-4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

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

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4182

**FOR FURTHER INFORMATION CONTACT:** Ed Addison, Rulemaking Office, [AIR-4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1160.

#### SUPPLEMENTARY INFORMATION:

#### I. Applicability

This **Federal Register** action for the South Coast Air Quality Management District excludes the Los Angeles County portion of the Southeast Desert AQMD, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997. The rule being proposed for approval into the California SIP is South Coast Air Quality Management District (SCAQMD) Rule 1110.2, Emissions from Gaseous- and Liquid-Fueled Engines. Rule 1110.2 was submitted by the State of California to EPA on May 18, 1998.

#### II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO<sub>x</sub> emissions through reasonably available control technology (RACT) are set out in section 182(f) of the Clean Air Act.

On November 25, 1992, EPA published a proposed rule entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO<sub>x</sub> Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The November 25, 1992, action should be referred to for further information on the NO<sub>x</sub> requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO<sub>x</sub> ("major" as defined in section 302 and sections 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. SCAQMD is classified as extreme;<sup>1</sup> therefore this area is subject to the RACT requirements of section 182(b)(2) and the November 15, 1992 deadline cited below.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO<sub>x</sub>) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO<sub>x</sub> CTGs issued before enactment and EPA has not issued a CTG document for any NO<sub>x</sub> sources since enactment of the CAA. The RACT rules covering NO<sub>x</sub> sources and submitted as SIP revisions require final installation of the actual NO<sub>x</sub> controls as expeditiously as practicable, but no later than May 31, 1995.

This document addresses EPA's proposed action for South Coast Air Quality Management District (SCAQMD) Rule 1110.2, Emissions from Gaseous- and Liquid-Fueled Engines, adopted by the SCAQMD on November 14, 1997. The State of California submitted this amended version of Rule 1110.2 to EPA on May 18, 1998. The rule was found to be complete on July 17, 1998, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.<sup>2</sup>

NO<sub>x</sub> emissions contribute to the production of ground level ozone and smog. SCAQMD Rule 1110.2 specifies

exhaust emission standards for NO<sub>x</sub>, carbon monoxide (CO), and VOCs, and was originally adopted as part of SCAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for this rule.

### III. EPA Evaluation and Proposed Action

In determining the approvability of a NO<sub>x</sub> rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the NO<sub>x</sub> Supplement (57 FR 55620) and various other EPA policy guidance documents.<sup>3</sup> Among those provisions is the requirement that a NO<sub>x</sub> rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO<sub>x</sub> emissions.

For the purpose of assisting State and local agencies in developing NO<sub>x</sub> RACT rules, EPA prepared the NO<sub>x</sub> Supplement to the General Preamble. In the NO<sub>x</sub> Supplement, EPA provides preliminary guidance on how RACT will be determined for stationary sources of NO<sub>x</sub> emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO<sub>x</sub> (see section 4.5 of the NO<sub>x</sub> Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all categories of stationary sources of NO<sub>x</sub>. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO<sub>x</sub>. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO<sub>x</sub>. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO<sub>x</sub> RACT rules

meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

The California Air Resources Board (CARB) has developed a guidance document entitled, "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Stationary Internal Combustion Engines." EPA has used CARB's RACT Determination, dated December 3, 1997, in evaluating Rule 1110.2 for consistency with the CAA's RACT requirements.

There is currently no version of South Coast Air Quality Management District (SCAQMD) Rule 1110.2, Emissions from Gaseous- and Liquid-Fueled Engines in the SIP. The submitted rule includes the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO<sub>x</sub>), volatile organic compounds (VOCs) and carbon monoxide (CO).
- Compliance and monitoring requirements including compliance schedule, reporting requirements, monitoring and record keeping, and test methods.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, record keeping, and compliance testing in addition to RACT guidance regarding emission limits. Rule 1110.2 strengthens the SIP through the addition of enforceable measures such as record keeping, test methods, definitions, and more stringent compliance testing. Because there is no existing SIP rule, the incorporation of Rule 1110.2 into the SIP would decrease the NO<sub>x</sub> emissions allowed by the SIP.

EPA has evaluated South Coast Air Quality Management District Rule 1110.2 for consistency with the CAA, EPA regulations, and EPA policy and has found that although SCAQMD Rule 1110.2 will strengthen the SIP, this rule contains deficiencies which must be corrected pursuant to the section 182(a)(2)(A) requirement of Part D of the CAA.

- Sections: (e)(1)(B)(i) and (ii), (e)(2)(C)(i), (ii) and (iii), and (e)(2)(D) Compliance Dates: Final compliance with emissions limitations must be met no later than May 15, 1999, as required by the CAA and the Repowering Memo, rather than the later dates indicated in these sections.

<sup>1</sup> SCAQMD retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

<sup>2</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).

<sup>3</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register Notice**" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

- Section (f)(1)(A), of the Rule must be modified to include monthly inspections and a monitoring plan as defined in CARB's RACT Determination. The plan should require that operating parameters are within levels associated with compliance as demonstrated by source testing. The Rule would be further strengthened by requiring periodic monitoring throughout the year with portable analyzers or other monitoring equipment to help ensure continuous compliance.

- To ensure enforceability of the emission limits and early identification of violations, Section (f)(1)(D), regarding compliance testing, should be modified to require that the source test frequency be increased from three years to annually as required in CARB's RACT Determination.

- Section (f)(1)(D), regarding recordkeeping, should require that records of all source test results, and monitoring and maintenance work be maintained by the facility.

A detailed discussion of these and other rule deficiencies can be found in the Technical Support Document for Rule 1110.2, dated October 23, 1998, which is available from the U.S. EPA, Region IX office. Because of these deficiencies, EPA cannot grant full approval of this rule under section 110(k)(3) and part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3), in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of SCAQMD's submitted Rule 1110.2 under sections 110(k)(3) and 301(a) of the CAA. At the same time, EPA is also proposing a limited disapproval of this rule because it contains deficiencies which must be corrected in order to fully meet the requirements of sections 182(a)(2), 182(b)(2), 182(f), of part D of the CAA. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected

within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rule covered by this document has been adopted by the South Coast Air Quality Management District and is currently in effect in the South Coast Air Quality Management District. EPA's final limited disapproval action will not prevent the South Coast Air Quality Management District or EPA from enforcing this rule.

#### IV. Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

##### B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA consults with those governments, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

##### C. Executive Order 13045

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 E.O. 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 E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

##### D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

##### E. 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. This final rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, I certify that this action 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).

#### F. 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 annual 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 annual 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen Ozone, Reporting and record

keeping requirements, Volatile organic compounds.

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

Dated: February 26, 1999.

**Laura Yoshii,**

*Deputy Regional Administrator, Region IX.*

[FR Doc. 99-6504 Filed 3-17-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 207-0135; FRL-6310-9]

### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) for the South Coast Air Quality Management District (SCAQMD) which concerns the control of Emissions of Oxides of Nitrogen from Stationary Gas Turbines.

The intended effect of proposing approval of this rule is to regulate emissions of NO<sub>x</sub> in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the Federally approved SIP. EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

**DATES:** Comments must be received on or before April 19, 1999.

**ADDRESSES:** Comments may be mailed to: Andrew Steckel, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460  
California Air Resources Board, Stationary Source Division, Rule

Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4182

**FOR FURTHER INFORMATION CONTACT:** Ed Addison, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1160.

#### SUPPLEMENTARY INFORMATION:

#### I. Applicability

This **Federal Register** action for the South Coast Air Quality Management District excludes the Los Angeles County portion of the Southeast Desert AQMD, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997.

The rule being proposed for approval into the California SIP is South Coast Air Quality Management District (SCAQMD) Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines. Rule 1134 was submitted by the State of California to EPA on May 18, 1998.

#### II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO<sub>x</sub> emissions through reasonably available control technology (RACT) are set out in section 182(f) of the Clean Air Act.

On November 25, 1992, EPA published a proposed rule entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO<sub>x</sub> Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The November 25, 1992, action should be referred to for further information on the NO<sub>x</sub> requirements and is incorporated into this document by reference.

Section 182 (f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO<sub>x</sub> ("major" as defined in section 302 and sections 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. SCAQMD is