corrected to read ''W's liability is limited to $4,400 (4/5 ×''.

2. On page 3900, column 2, § 1.6015–3, paragraph (d)(5), paragraph (ii) of *Example 6,* line 9, the language ''is limited to $3,900 (3/4 of $5,200). If H also'' is corrected to read ''is limited to $4,160 (4/5 of $5,200). If H also''.

3. On page 3900, column 2, § 1.6015–3, paragraph (d)(5), paragraph (ii) of *Example 6,* line 11, the language ''election to allocate the $3,900 of the'' is corrected to read ''election to allocate the $4,160 of the''.

4. On page 3900, column 2, § 1.6015–3, paragraph (d)(5) *Example 7,* line 5, the language ''as in Example 7, except that H deducts'' is corrected to read ''as in *Example 6,* except that H deducts''.

Cynthia E. Grigsby,

Chief, Regulations Unit Office of Special Counsel (Modernization and Strategic Planning).

[FR Doc. 01–7825 Filed 3–28–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 226–0226; FRL–6960–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing a limited approval to revisions to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP) concerning particulate matter (PM–10) emissions and carbon monoxide (CO) emissions from incineration and from fuel burning equipment.

The intended effect of proposing a limited approval of these rules is to strengthen the federally approved SIP by incorporating this revision. EPA's final action on this proposal will incorporate these rules into the SIP. While strengthening the SIP, this revision contains deficiencies which the VCAPCD must address before EPA can grant full approval under section 110(k)(3).

We are also proposing full approval of a revision to the BAAQMD portion of the California SIP concerning nitrogen oxide (NO_X) emissions from boilers, steam generators, and process heaters.

We are following the CAA requirements for actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for attainment and nonattainment areas.

DATES: Any comments must arrive by April 30, 2001.

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

You can inspect copies of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 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 94105

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1135.

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

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I. The State's Submittal

A. What Rules did the State Submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted to us by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local Agency	Rule #	Rule Title	Adopted	Submitted
BAAQMD	Manual of Procedures, volume I, chapter 5.	Boiler, Steam Generator, and Process Heater Tuning Procedure.	09/15/93	07/23/96
VCAPCD	57	Combustion Contaminants—Specific	06/14/77	01/21/00
VCAPCD	68	Carbon Monoxide	06/14/77	01/21/00

On October 30, 1996, March 1, 2000, and March 1, 2000, respectively, these rule submittals were 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 These Rules?

There are no previous versions of BAAQMD Manual of Procedures, volume I, chapter 5 in the SIP.

We previously approved a version of VCAPCD Rule 57 into the SIP on August 15, 1977 (42 FR 41121).

We previously approved a version of VCAPCD Rule 68 into the SIP on September 22, 1972 (37 FR 19806).

C. What are the Purposes or Changes in the Submitted Rules?

BAAQMD Rule Manual of Procedures, volume I, chapter 5 is a step-wise procedure for tuning boilers, steam generators, and process heaters to provide sufficient oxygen for complete combustion, but not too much oxygen for minimization of NO_X formation. The tuning procedure is required by BAAQMD Rule 9–7, Nitrogen Oxides

and Carbon Monoxide from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters.

VCAPCD Rules 57 and 68 both add an exemption for jet engine and rocket engine test stands to the fuel burning equipment sections of the rules.

II. EPA's Evaluation and Action

A. How is EPA Evaluating the Rules?

We evaluated these rules for enforceability and consistency with the CAA as amended in 1990, with 40 CFR part 51, and with EPA's RACT Guidance, NO_X policy, and PM–10 policy. BAAQMD is a NO_X attainment area and an ozone nonattainment area.[1] Ozone nonattainment areas must meet the requirements of RACT according to section 172(c)(1) of the CAA. VCAPCD is a PM–10 maintenance attainment area and a CO attainment area.

Guidance and policy documents that we used to evaluate the rules are as follows:

- *PM–10 Guideline Document* (EPA–452/R–93–008).
- *Sourcebook:* NO_X *Control Technical Data (EPA–600/2–91–029).*
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987* **Federal Register** (52 FR 45044) (The Blue Book).

B. Do the Rules Meet the Evaluation Criteria?

BAAQMD Manual of Procedures, volume I, chapter 5 meets the evaluation criteria.

The adoption of revised VCAPCD Rules 57 and 68 improves the SIP by bringing the SIP into conformance with long historical practice in the District. Although, the addition of an exemption may, under certain circumstances, lessen the stringency of the SIP, approval of the revised Rules VCAPCD 57 and 68 is not inconsistent with sections 110(l) and 193 of the CAA for the following reasons:

- There are two sources of jet engine and rocket engine test stand PM–10 emissions in the VCAPCD that are regulated by permit and are allowed to emit up to 2.13 and 5.44 tons/year PM–10, respectively. These small uncontrolled sources are included in the air quality management plant for the District without any credit taken for controls. Therefore, exempting these small sources from Rule 57 will not cause a violation of the NAAQS for PM–10.
- There are two sources of jet engine and rocket engine test stand CO emissions in the VCAPCD that are regulated by permit are allowed to emit up to 839 and 17 tons/year CO, respectively. These uncontrolled sources are included in the air quality management plan for the District without any credit taken for controls. In a letter from CARB to EPA Region IX dated May 7, 1979, CARB concluded that the exemption to Rule 68 would not prevent attainment or maintenance of the NAAQS for CO. Therefore, we do not expect these sources to cause a violation of the NAAQS for CO.

C. What are the Rule Deficiencies?

VCAPCD Rules 57 and 68 have the following deficiencies that prevent full approval:

- The enforceability is limited, because EPA-approved test methods are not included in the rules.
- The enforceability is limited, because monitoring is not required by the rules.
- The enforceability is limited, because recordkeeping is not required by the rules.

D. EPA Recommendations to Further Improve the Rules

The TSD for VCAPCD Rule 68 describes an additional rule revision that does not affect EPA's current action but is recommended for the next time the local agency modifies the rules.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, we are proposing a limited approval of VCAPCD Rules 57 and 68 to improve the SIP. If finalized, this action would incorporate the submitted rules into the SIP. No sanctions under section 179 are associated with this proposed action.

As authorized in section 110(k) of the Act, we are proposing a full approval of BAAQMD Manual of Procedures, volume I, chapter 5 to improve the SIP.

We will accept comments from the public on the proposed full approval and proposed limited approvals for the next 30 days.

III. Background Information

Why Were These Rules Submitted?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 2 lists some of the national milestones leading to the submittal of local agency PM–10 rules.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305.
July 1, 1987	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). 52 FR 24672.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
November 15, 1990	PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated nonattainment by operation of law and classified as moderate or serious pursuant to section 189(a). States are required by section 110(a) to submit rules regulating PM–10 emissions in order to achieve the attainment dates specified in section 188(c).

CO harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control CO emissions. Table 3 lists some of the national milestones leading to the submittal of local agency CO rules.

[1] On July 10, 1998 (63 FR 37258), EPA published the final rule redesignating the San Francisco Bay Area to nonattainment with the federal 1-hour ozone NAAQS. The redesignation was authorized under the general nonattainment provisions of subpart 1 of the Act. The Bay Area, therefore, does not have a subpart 2 classification. When comparing air quality in the Bay Area to the traditional subpart 2 classification system, the Bay Area's design value is equivalent to that of a moderate area.

TABLE 3.—CO NONATTAINMENT MILESTONES

Date	Event
March 3, 1987	EPA promulgated a list of CO nonattainment areas under the Clean Air Act as amended in 1977. 40 CFR 81.305.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671g.
November 15, 1990	CO areas meeting the qualifications of section 107(d)(4)(A) of the CAA were designated nonattainment by operation of law and classified as moderate or serious pursuant to section 186(a). States are required by section 110(a) to submit rules regulating CO emissions in order to achieve the attainment dates specified in section 186(a)(1).

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 4 lists some of the national milestones leading to the submittal of these local agency NO_X rules.

TABLE 4.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1987	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. 7401–7671g.
May 15, 1991	Section 182(a)(2)(a) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

Executive Order 13045, entitled 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 Executive Order 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 Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 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 federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed 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, because it merely acts on 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. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

D. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent

with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

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 proposed 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 act on 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.

EPA's proposed disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, 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 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 proposed action 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 proposed Federal action acts on 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.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen oxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: March 14, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

[FR Doc. 01–7793 Filed 3–28–01; 8:45 am]

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