unless EPA receives adverse written comments by July 12, 2001.

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 August 13, 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, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: May 18, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, 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 KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(124) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(124) On November 9, 2000, Ohio submitted Director's Final Findings and Orders revising sulfur dioxide emissions regulations for the Lubrizol Corporation facility in Lake County, Ohio. The revisions include the adjustment of six short-term emissions limits, the addition of an annual emissions limit, and the addition of a continuous emissions monitoring system (CEMS). These state implementation plan revisions do not increase allowable sulfur dioxide emissions.

(i) Incorporated by reference.

Emissions limits for the Lubrizol Corporation facility in Lake County contained in Director's Final Findings and Orders. The orders were effective on November 2, 2000 and entered in the *Director's Journal* on November 9, 2000.

[FR Doc. 01–14608 Filed 6–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0280a; FRL–6990–9]

Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns the control of emissions from Oxides of Nitrogen (NO_X) and sulfur compounds. We are approving a local rule that regulates these emissions under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on August 13, 2001 without further notice, unless EPA receives adverse comments by July 12, 2001. 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 94105–3901.

You can inspect copies 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 copies of the submitted SIP revision 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.

Monterey Bay Unified Air Pollution Control District, Rule Development, 24580 Silver Cloud Ct., Monterey, CA 93940–6536.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1197.

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

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I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the date 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	Rule title	Adopted	Submitted
MBUAPCD	404	Sulfur Compounds and Nitrogen Oxides	03/22/00	05/26/00

On October 6, 2000, 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?

We approved a version of Rule 404 into the SIP on August 11, 1998.

C. What Is the Purpose of the Submitted Rule Revision?

MBUAPCD submitted Rule 404, Sulfur Compounds and Nitrogen Oxides, includes the following administrative changes from the current SIP-approved rule:

• Clarification of existing exemption for electric power boilers.

• Incorporation of existing exemptions for certain types of open burning and agricultural operations from District Rule 405, Exceptions.

• Update of the reference section to incorporate related District Rules.

The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

Generally, SIP rules for SO_2 and NO_2 must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). MBUAPCD is listed as being attainment for the national ambient air quality standards (see 40 CFR 81) for SO_2 and NO_2. Therefore, for purposes of controlling SO_2 and NO_2, Rule 404 needs only comply with the general provisions of Section 110 of the Act.

Guidance and policy documents that we used to define specific enforceability requirements include the following:

1. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. ''SO_2 Guideline Document,'' EPA–452/R–94–008.

B. Does the Rule Meet the Evaluation Criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability and SIP relaxations.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, 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 July 12, 2001, 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 August 13, 2001. This will incorporate this rule into the federally enforceable SIP.

III. Background Information

A. Why Was This Rule Submitted?

NO_X helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Sulfur dioxide is formed by the combustion of fuels containing sulfur compounds and causes harm to human health and the environment. This rule is designed to reduce SO_2 and NO_2 emissions.

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). This rule also does 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), nor will it 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 August 13, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 8, 2001.

Jane Diamond,

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)(279)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(279) * * *

(i) * * *

(B) Monterey Bay Unified Air Pollution Control District.

(*1*) Rule 404, Monterey Bay Unified APCD, adopted on March 22, 2000.

* * * * *

[FR Doc. 01–14606 Filed 6–11–01; 8:45 am]

BILLING CODE 6560–60–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket 99–231; FCC 01–158]

Spread Spectrum Devices; and Wi-LAN, Inc. Application

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies Wi-LAN's Application for Review and grants a waiver request for equipment certification for Wi-LAN's Wideband Orthogonal Frequency Division Multiplexing (W–OFDM) system and similar systems that operate in the 2.4–2.483 GHz band if they meeting the existing rules for direct sequence spread spectrum systems. We take this action to serve the public interest.

DATES: Effective June 12, 2001.

FOR FURTHER INFORMATION CONTACT: Neal McNeil, Office of Engineering and Technology, (202) 418–2408, TTY (202) 418–2989, e-mail: nmcneil@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rule Making and Order*, ET Docket 99–231, FCC 01–158, adopted May 10, 2001 and released May 11, 2001. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC 20554. The complete text of this document also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Summary of Order

1. Wi-LAN Application for Review. On February 17, 2000, Wi-LAN filed an application for equipment certification for its Wideband Orthogonal Frequency Division Multiplexing (W–OFDM) transmitter under the rules for direct sequence spread spectrum systems. The Commission's Office of Engineering and Technology (''OET'') denied that application on the basis that Wi-LAN's W–OFDM device did not meet the definition of a direct sequence spread spectrum system as set forth in § 2.1 of the rules. Subsequently, OET denied Wi-LAN's Petition for Reconsideration of that decision for the same reasons. Wi-LAN filed an Application for Review of the staff action. In this filing, Wi-LAN argues that its device meets all the technical requirements explicitly stated in the rules for direct sequence spread spectrum systems and should be granted certification. We find that OET acted properly in denying Wi-LAN's application for certification. In this regard, we agree with OET that Wi-LAN's W–OFDM device does not meet the definition of a direct sequence spread spectrum system as set forth in § 2.1 of the rules. The Wi-LAN system does however, resemble a spread spectrum system in its spectrum characteristics. Notwithstanding our finding that Wi-LAN's W–OFDM system is not a spread spectrum system as defined in our rules, we find that it will serve the public interest to allow grant of equipment certification now for this system and similar systems that operate in the 2.4–2.483 GHz band if they meet the existing rules for direct sequence spread spectrum systems in 47 CFR 15.247(a), (b), (c), and (d), conditioned on their compliance with any final rules that may be adopted in this proceeding. Accordingly, the Commission will waive, on an interim basis, the restriction of 47 CFR 15.247(a) that limits operation pursuant to the remaining portions of 47 CFR 15.247 to frequency hopping and direct sequence spread spectrum systems. We find that there is good cause to waive the cited rule during the pendency of this proceeding because such devices have generally the same emission mask as currently authorized devices and thus will not undermine the existing rules. Digital modulation systems closely resemble spread spectrum systems in terms of their spectrum occupancy characteristics, and therefore are not likely to pose any increased risk of interference over that posed by spread spectrum systems. We believe that compliance with the rules, which address spectrum occupancy, power, out-of-band emissions, and antennas, will ensure that digital modulation systems operating in the 2.4 GHz band will operate with the same spectrum occupancy characteristics as spread spectrum systems. We also observe that such systems appear to offer capabilities in terms of broadband data transmission capacity that are likely to make them more desirable than traditional spread spectrum systems for many users. Allowing authorization of digital modulation systems now will avoid the delays otherwise imposed by our rulemaking process and thereby substantially speed the process for implementation of these new system designs. In this regard, our decision to waive the restrictions which prevent authorization of such systems reflects our view that it is appropriate and desirable to take steps wherever possible to facilitate the timely and efficient introduction of new technologies and equipment, and particularly those that will support the development and deployment of broadband infrastructure without threat to incumbent operations and devices. For the reasons indicated in this *Further Notice of Proposed Rule Making and Order* (FNPRM and Order) that the Commission released on May 11, 2001, we believe that authorization of Wi-LAN's device and other digital modulation systems prior to our adoption of final rules will not result in harm to other radio operations. Consistent with Wi-LAN's application for equipment certification, we will require that any devices granted prior to the adoption of new rules pursuant to the provisions of paragraph 26 of the