activities or groups, should only be made by ships not equipped with INMARSAT C. Ships in this category must provide all the required information to the Coast Guard watchstander.

§ 169.140 What information must be included in the report?

Each ship report made to the shore-based authority must follow the standard reporting and requirements listed in t

BILLING CODE 4910–15–P

AQD EXHIBIT
16
PENGAD 800-631-6989

Table 169.140 Requirements for ship reports

Telegraphy	Function	Information required
Name of system	System identifier	Ship reporting system WHALESNORTH or WHALES SOUTH.
A	Ship	The name, call sign or ship station identity, IMO number, and flag of the vessel.
B	Date and time of event	A 6-digit group giving day of month (first two digits), hours and minutes (last four digits.
E	True course	A 3-digit group.
F	Speed in knots and tenths of knots	A 3-digit group.
H	Date, time and point of entry into system	Entry time expressed as in (B) and entry position expressed as- (1) a 4-digit group giving latitude in degrees and minutes suffixed with N(north) or S (south) and a 5-digit group giving longitude in degrees and minutes suffixed with E (east) or W (west); or (2) True bearing (first 3 digits) and distance (state distance) in nautical miles from a clearly identified landmark (state landmark).
I	Destination and expected time of arrival	Name of port and date time group expressed as in (B).
L	Route information	Intended track.

Dated: May 26, 1999.

T.H. Gilmour,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–13781 Filed 5–27–99; 1:33 pm]

BILLING CODE 4910–15–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM–9–1–5214a; FRL–6350–1]

Approval and Promulgation of Implementation Plans; State of New Mexico and County of Bernalillo, New Mexico; State Boards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves the State Implementation Plan (SIP) revisions for Board composition and conflict of interest disclosure requirements submitted both by the State of New Mexico and by Albuquerque/Bernalillo County, NM. The SIP revisions were submitted by the County and the State to satisfy the Federal mandate, found in section 128 of the Federal Clean Air Act (the Act), and in response to a SIP call letter to the Governor of New Mexico dated July 19, 1989, requiring a cure to identified SIP deficiencies concerning State Boards.

The revisions were submitted by the Governor to EPA on April 20 and July 16, 1990, for the State portion, and on November 16, 1990, for the Albuquerque/Bernalillo County portion. Supplemental information was submitted for Albuquerque/Bernalillo County on December 18, 1990, October 21, 1991, and November 22, 1991. These revisions correct deficiencies for the New Mexico Environmental Improvement Board (NMEIB) and the Albuquerque/Bernalillo County Air Quality Board in order to comply with section 128 of the Act. The EPA approval of these New Mexico SIP revisions make the revisions federally enforceable. Subsequent correspondence in February and March 1993 addressed eligibility for "public interest" Board member positions.

DATES: This action is effective on August 2, 1999, without further notice, unless EPA receives adverse comment by July 1, 1999. If we receive such comment, we will publish a timely withdrawal in the **Federal Register**

informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Reference Docket Number: File Code SIP 1–3–10; NM–90–05.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

New Mexico Environment Department, Air Quality Bureau, 1190 St. Frances Drive, Room So. 2100, Santa Fe, New Mexico 87503.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Dr. John Crocker, P.E., of the EPA Region 6 Air Planning Section at the above address, telephone (214) 665–7596.

SUPPLEMENTARY INFORMATION:

I. Background

The Act, section 128(a) titled—State Boards, requires each SIP to contain provisions which ensure that: (1) any board or body which approves permits or enforcement orders under the Act shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Act, and (2) any potential conflicts of interest by members of such board or body, or the head of an executive agency with similar powers, be adequately disclosed.

The New Mexico Air Quality Control Act (section 74–2–4) authorizes Albuquerque/Bernalillo County to locally administer and enforce the State Air Quality Control Act by providing for a local air quality control program. Thus, State law views Albuquerque/Bernalillo County and the remainder of the State of New Mexico as distinct air quality control entities. Therefore, each entity is required to submit its own SIP revision in order to completely satisfy the requirements of section 128(a) of the Clean Air Act for the entire State of New Mexico.

A. SIP Call

On July 19, 1989, EPA issued a SIP call to the Governor of New Mexico providing formal notice of finding the SIP to be substantially inadequate. The SIP call required New Mexico (i.e., the NMEIB and the joint Albuquerque/Bernalillo County Air Quality Board) to take curative steps to comply with section 128 of the Act within a one-year time period or a corrective Federal Implemention Plan could be imposed to remedy the deficiencies.

Specifically, the SIP call required New Mexico to submit to EPA a schedule for the development and submittal of the necessary SIP revisions to correct the SIP deficiencies, including any necessary legislation needed to satisfy section 128 requirements (which would be adopted during the 1990 legislative session).

B. State Submittal

1. State Portion

In response to the July 1989 SIP call, on October 6, 1989, the State of New Mexico sent draft statutory changes of the New Mexico Air Quality Control Act (NMAQCA) to EPA for review and comment in anticipation of a 30-day legislative session to be held in early 1990. These proposed changes were intended to meet the section 128(a)(1) requirements of the Act for the NMEIB, by removing permitting and enforcement jurisdiction from the Board and placing it under the purview of the NMEID Director. This concept is acceptable under Federal law. The EPA provided comments on the draft statutory changes on December 4, 1989. In February 1990, the New Mexico State Legislature passed House Bill 404aa which contained language that satisfied the requirements of section 128(a)(1) of the Act. This bill was signed by the Governor and became immediately effective on February 28, 1990.

On April 20, 1990, the Governor submitted a SIP revision to EPA addressing the State portion of the State Board requirements. The submittal was a copy of enacted House Bill (H.B.) 404aa which amended the NMAQCA. This submittal was in response to the July 19, 1989, SIP call. House Bill 404aa adopted changes which removed permits and enforcement orders from the jurisdiction of the board. In addition, it required a majority of the board members to represent the public interest, and not derive any significant portion of their income from persons subject to (or who appear before the board on) issues related to the Act or the NMAQCA.

After a subsequent review of the SIP revision submittal, EPA determined on June 18, 1990, that the April 1990 State submittal was incomplete and requested a formal State submittal of the New Mexico Conflict of Interest Act and the NMEIB Code of Conduct. Similar information was also required for the City of Albuquerque/Bernalillo County portion of the State's submittal (e.g., ordinances, and any conflict of interest applicable provisions). On July 16, 1990, the Governor formally submitted the State's Conflict of Interest Act and the NMEIB Code of Conduct as an addendum to the April 1990 submittal to meet the section 128(a)(2) requirements of the Act. As indicated in EPA's letter dated August 9, 1990, this submittal completed the State's portion of the section 128(a) requirements. Under the State's Conflict of Interest Act, the members of the board and the NMEID Director are required to disclose any potential conflicts of interest. The NMEIB Code of Conduct prescribes standards of conduct for members of the NMEIB for potential conflict of interest situations. The Code is consistent with and intended to supplement the requirements of the State's Conflict of Interest Act, section 10–16–1 to 10–16–16 NMSA 1978. The EPA's earlier review of H.B. 404aa determined that it is acceptable under Federal law to remove permitting and enforcement jurisdiction from the NMEIB and to place it under the purview of the NMEID Director.

2. Albuquerque/Bernalillo County Portion

The initial Governor's SIP revision submittal for the City of Albuquerque/Bernalillo County occurred on November 16, 1990, via a letter to EPA and contains a SIP narrative and supporting attachments. It incorporates amendments to local ordinances correcting the criteria by which board members are appointed and also addresses Conflict of Interest. Supplemental information was submitted to EPA on December 18, 1990. The submittal included the following documents:

a. SIP narrative statement regarding State Boards, including three (3) attachments as follows:

1. City and County Metropolitan Environmental Health Advisory Board Ordinances as amended.

2. City and County Air Quality Control Board Ordinances.

3. The City Attorney's compilation of materials concerning City and County Conflict of Interest, and Code of Conduct.

b. Supporting documents which are necessary for processing and approving this SIP submittal (e.g., proof of September 9, 1990, legal notice of public hearing; and public hearing transcript of October 10, 1990).

This submittal was determined by EPA to be incomplete on June 21, 1991, pending a satisfactory resolution of prior EPA comments on the draft SIP supplement pertaining to State Boards by the City of Albuquerque's, Air Pollution Control Division. Specifically, these comments concerned the belief that critical legal flaws or deficiencies may exist, with respect to State Board requirements, in the Albuquerque/ Bernalillo County addendum SIP revision. Supplemental information was submitted to EPA on October 21, 1991. A legal opinion by the Albuquerque City Attorney dated November 22, 1991, satisfactorily addressed EPA concerns as expressed in the June 21, 1991 letter. After a review of the addendum SIP revision, supplemental information and this legal opinion, EPA determined on December 17, 1991, that both the State portion and the City of Albuquerque/ Bernalillo County portion of the Governor's submittal were complete.

II. Analysis of State Submission

A. General

The EPA has reviewed the Governor's submittals (both portions) and developed a Technical Support Document (TSD). The TSD concludes that the New Mexico Governor's SIP revisions (both portions) meet all of the requirements of section 128 of the Act. This TSD is available for inspection by interested parties during normal business hours at the EPA Region 6 Office.

B. Public Interest Membership

The EPA received written correspondence dated July 4, 1990, from an interested party concerning the eligibility for "public interest" Board member positions. As indicated in a reply letter dated November 27, 1990, EPA interprets the New Mexico Air Quality Control Act as follows: If a person appears before the Board on any matter(s), and that person is not paid for his or her appearance(s), or if he or she is paid, and that payment(s) is not a significant portion of his or her income, then that person can still qualify to be a public interest Board member. The EPA does not read the State statute to preclude persons from being eligible for public interest Board member positions if they have ever appeared before the Board on any matter(s). The disqualifying link is whether that appearance(s) was a paid one and whether the payment, if any, was a significant portion of one's annual income. The State has agreed with this interpretation as well.

In subsequent correspondence with the New Mexico Environment Department (previously the NMEID) dated March 19, 1993, EPA further defined this issue by stating: Persons who are designated to either represent nonprofit environmental protection organizations or represent municipal and county governments, do not represent the public interest. The rationale behind this judgement is that each group could potentially pursue their own agenda and thus, would not represent the public interest. Specifically, professional public interest advocates (e.g., paid representatives) do not qualify for the "public interest" majority requirements. However, mere membership in the organizations would not be disqualifying.

In February and March 1993, the New Mexico Legislature considered H.B. 552 which proposed to increase the size of the Environmental Improvement Board from five to seven members. Specifically, the House Bill proposed that one new member would represent a non-profit environmental protection organization, and the other member would represent municipal (and county) governments. On March 2, 1993, EPA provided comments on this proposed bill and determined that it would throw the NMEIB public interest membership off balance, and if enacted, the language would be unapprovable under the Act, section 128. Likewise, the New Mexico Environment Department analyzed this bill and recommended not adopting the bill on the grounds that it would expose the NMEIB to membership composition problems. Subsequently, the New Mexico Legislature did not pass the flawed H.B. 552.

C. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. See also section 110(l) of the Act. Also, EPA must determine whether a submittal is complete, and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, Appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

Regarding the State portion of the SIP submittal (which includes New Mexico H.B. 404aa, and New Mexico Conflict of Interest Act) for State Boards, it is EPA's position that a public hearing is not required for State legislative statutes. The EPA views the State legislative process as fully satisfying the procedural requirements of 40 CFR 51.102 for adoption and submittal of SIP revisions.

After providing adequate 30 day public notice, Albuquerque/ Bernalillo County held a public hearing on October 10, 1990, to entertain public comment on proposed revisions to its portion of the SIP submittal regarding State Boards. No adverse public comments were received at the public hearing. Following the public hearing and consideration of minor public comments, the SIP revision was adopted by the Albuquerque/Bernalillo County Air Quality Control Board on October 10, 1990. The Albuquerque/Bernalillo County portion of the SIP revision was then submitted by the Governor to EPA by cover letter dated November 16, 1990. Supplemental information was submitted on December 18, 1990, October 21, 1991, and November 22, 1991.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria referenced above. A letter dated December 17, 1991, was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process.

III. Final Action

By this action, EPA is approving revisions to the New Mexico SIP regarding State Boards for both the State of New Mexico and for Albuquerque/ Bernalillo County, NM. The SIP revisions were submitted by the State to satisfy the Federal mandate, found in section 128 of the Act concerning State Board composition and conflict of interest provisions. The EPA has reviewed these revisions to the New Mexico SIP and is approving them as submitted.

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a

separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This action will be effective on August 2, 1999, without further notice unless we receive adverse comment by July 1, 1999.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action must do so at this time. If no such comments are received, the public is advised that this action will be effective August 2, 1999, and no further action will be taken on the proposed rule.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements regardless of the fact that the submittal preceded the date of enactment. Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order (E.O.) 12866

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

B. Executive Order 12875

Under E.O. 12875, 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 complies by consulting, E.O. 12875 requires EPA to provide to the OMB 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, E.O. 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 rules on any of these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. 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 EPA determines: (1) is "economically significant" as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has 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.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to E.O. 13045 because it approves a State program.

D. Executive Order 13084

Under E.O. 13084, 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, E.O. 13084 requires EPA to provide to the OMB, 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, E.O. 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. This action does not involve or impose any requirements that affect Indian Tribes. 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, 5 U.S.C. 600 *et seq.*, 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 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See 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, 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.

The 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 preexisting 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. Submission to Congress and the Comptroller General

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. The 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 can not take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2). This rule will be effective August 2, 1999.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 2, 1999. 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, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 26, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation of part 52 continues to read as follows:

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

Subpart GG—New Mexico

2. In section 52.1620(e), the table is amended by adding section 74–1–4 at the beginning of the table, by revising section 74–2–4, and by adding new sections to the table after section 74–2–17.

§ 52.1620 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED NEW MEXICO STATUTES IN THE CURRENT NEW MEXICO SIP

State citation	Title/subject	State approval/effective date	EPA approval date	Comments
NMSA 1978—New Mexico Statutes in the New Mexico SIP				
74–1–4	Environmental Improvement Board—Creation—Organization.	04/20/90	June 1, 1999.	
* *	* *		*	* *
74–2–4	Municipal or County Air Quality Control Board.	04/20/90	June 1, 1999.	
* *	* *		*	* *
Article 16, Sections 10–16–1 through 10–16–16.	New Mexico Conflict of Interest Act	07/16/90	June 1, 1999.	
Article 16, Supplemental	New Mexico Environmental Improvement Board Code of Conduct.	07/16/90	June 1, 1999.	
EPA Approved City of Albuquerque and Bernalillo County Ordinances for State Board Composition and Conflict of Interest Provisions				
City of Albuquerque, Chapter 6, Article XVII Sections 6–17–1 to 6–17–3.	Metropolitan Environmental Health Advisory Board.	11/16/90	June 1, 1999.	
Bernalillo County Commission Ordinance 302.	Metropolitan Environmental Health Advisory Board.	08/05/74	June 1, 1999.	
Bernalillo County Commission Ordinance 90–19.	Metropolitan Environmental Health Advisory Board.	08/21/90	June 1, 1999	Amended Ordinance 302.
City of Albuquerque, Chapter 6, Article XVI Sections 6–16–1 to 6–16–15.	Joint Air Quality Control Board Ordinance.	08/01/89	June 1, 1999.	
Bernalillo County Commission Ordinance 88–45.	Joint Air Quality Control Board Ordinance.	12/27/88	June 1, 1999	Amended Ordinance 84–44.
City of Albuquerque Chapter 1, Article XII Sections 1–12–1 to 1–12–3.	Public Boards, Commissions and Committees.	07/01/87	June 1, 1999.	

EPA APPROVED NEW MEXICO STATUTES IN THE CURRENT NEW MEXICO SIP—Continued

State citation	Title/subject	State approval/effective date	EPA approval date	Comments
City of Albuquerque Chapter 2, Article III Sections 2–3–1 to 2–3–13.	Conflict of Interest	07/01/85	June 1, 1999.	
City of Albuquerque Charter, Article XII.	Code of Ethics	04/01/90	June 1, 1999.	
Bernalillo County Commission Ordinance 85–3.	Code of Ethics	02/05/85	June 1, 1999.	
City of Albuquerque Code of Conduct.	City Code of Conduct	02/09/90	June 1, 1999.	

[FR Doc. 99–13379 Filed 5–28–99; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6351–6]

RIN 2060–AI24

Protection of Stratospheric Ozone: Incorporation of Montreal Protocol Adjustment for a 1999 Interim Reduction in Class I, Group VI Controlled Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With this action, EPA is revising the accelerated phaseout regulations that govern the production, import, export, transformation and destruction of substances that deplete the ozone layer under authority of Title VI of the Clean Air Act Amendments of 1990 (CAA or the Act). This amendment reflects changes in U.S. obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) due to recent adjustments by signatory countries to this international agreement. Specifically, this amendment incorporates the Protocol's 25 percent interim reduction in the production and consumption of class I, Group VI controlled substances (methyl bromide) for the 1999 control period and subsequent control periods.

In taking this action, EPA recognizes the recent intent of Congress in changes to the Clean Air Act that direct EPA to conform the U.S. phasedown schedule of methyl bromide to the Montreal Protocol's schedule for industrialized nations, including required interim reductions and specific exemptions. EPA intends to follow this rule with other actions to complete the process of conforming the U.S. methyl bromide phaseout schedule and specific exemptions with obligations under the Montreal Protocol and with the recent changes to the Clean Air Act. Through subsequent actions to this amendment, EPA plans to reflect, through notice and comment rulemaking, the additional steps in the phaseout schedule for the production and consumption of methyl bromide, as follows: beginning January 1, 2001, a 50 percent reduction in baseline levels; beginning January 1, 2003, a 70 percent reduction in baseline levels; beginning January 1, 2005, a complete phaseout of the production and consumption with emergency and critical use exemptions permitted under the Montreal Protocol. Even sooner, EPA plans to publish a proposal that will describe a process for exempting quantities of methyl bromide used in the U.S. for quarantine and preshipment from the reduction steps in the phaseout schedule.

EFFECTIVE DATE: This rule is effective on July 1, 1999.

ADDRESSES: Materials supporting this rulemaking and comments are contained in Public Docket No. A–92–13, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The docket is located in Room M–1500, Waterside Mall (Ground Floor). Dockets may be inspected from 8 a.m. until 12 noon, and from 1:30 p.m. until 3 p.m., Monday through Friday. EPA may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: The Stratospheric Ozone Protection Hotline at 1–800–269–1996 between the hours of 10 a.m. and 4 p.m. Eastern Standard Time, or Tom Land, U.S. Environmental Protection Agency, Stratospheric Protection Division (6205J), 401 M Street, S.W., Washington, D.C. 20460, (202) 564–9185.

SUPPLEMENTARY INFORMATION:

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I. Legislative and Regulatory Background of Phasing Out Production and Consumption of Controlled Substances that Deplete the Ozone Layer
II. Context for Today's Final Rule
III. Amendments to § 82.7—Grant and Phased Reduction of Baseline Production and Consumption Allowances for Class I Controlled Substances
IV. Next Steps to Conform the U.S. Methyl Bromide Phaseout Schedule and Exemptions to the Montreal Protocol and the Recently Amended Clean Air Act
V. Response to Comments on the Notice of Proposed Rulemaking Published on February 25, 1999
VI. Summary of Supporting Analysis

I. Legislative and Regulatory Background of Phasing Out Production and Consumption of Controlled Substances That Deplete the Ozone Layer

The current regulatory requirements of the Stratospheric Ozone Protection Program that limit production and consumption of ozone-depleting substances were promulgated by the Environmental Protection Agency (EPA or the Agency) in the **Federal Register** on December 20, 1994 (59 FR 65478), May 10, 1995 (60 FR 24970), August 4, 1998 (63 FR 41625) and October 5, 1998 (63 FR 53290). The regulatory program was originally published in the **Federal Register** on August 12, 1988 (53 FR 30566), in response to the 1987 signing of the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol).[1] The U.S. was one of the original signatories to the 1987 Montreal Protocol and the U.S. ratified the Protocol on April 4, 1988. Congress then enacted, and President Bush signed into law, the Clean Air Act Amendments of

[1] Several revisions to the original 1988 rule were issued on the following dates: February 9, 1989 (54 FR 6376), April 3, 1989 (54 FR 13502), July 5, 1989 (54 FR 28062), July 12, 1989 (54 FR 29337), February 13, 1990 (55 FR 5005), June 15, 1990 (55 FR 24490) and June 22, 1990 (55 FR 25812) July 30, 1992 (57 FR 33754), and December 10, 1993 (58 FR 65018).