Subpart J—Action by the Board

45. Section 20.900 is amended by revising paragraph (b) and the authority citation, and by adding a new paragraph (d) to read as follows:

§ 20.900 Rule 900. Order of consideration of appeals.

* * * * *

(b) *Appeals considered in docket order.* Appeals are considered in the order in which they are entered on the docket, except as provided in paragraphs (c) and (d).

* * * * *

(d) *Consideration of appeals remanded by the United States Court of Veterans Appeals.* A case remanded by the United States Court of Veterans Appeals for additional development or other appropriate action will be treated expeditiously by the Board without regard to its place on the Board's docket.

(Authority: 38 U.S.C. 7107, Pub. Law No. 103–446 § 302)

46. Section 20.901(e) is revised to read as follows:

§ 20.901 Rule 901. Medical opinions and opinions of the General Counsel.

* * * * *

(e) For purposes of this section, the term ''the Board'' includes the Chairman, the Vice Chairman, any Deputy Vice Chairman, and any Member of the Board before whom a case is pending.

(Authority: 38 U.S.C. 5107(a), 7104(c), 7109)

Subpart K—Reconsideration

47. Section 20.1003 is revised to read as follows:

§ 20.1003 Rule 1003. Hearings on reconsideration.

After a motion for reconsideration has been allowed, a hearing will be granted if an appellant requests a hearing before the Board. The hearing will be held by a Member or Members assigned to the reconsideration panel. A hearing will not normally be scheduled solely for the purpose of receiving argument by a representative. Such argument should be submitted in the form of a written brief. Oral argument may also be submitted on audio cassette for transcription for the record in accordance with Rule 700(d) (§ 20.700(d) of this part). Requests for appearances by representatives alone to personally present argument to a Member or panel of Members of the Board may be granted if good cause is shown. Whether good cause has been shown will be determined by the presiding Member.

(Authority: 38 U.S.C. 7102, 7103, 7105(a))

Subpart L—Finality

48. In section 20.1100(a), the last sentence is amended by removing ''Section'' and adding, in its place, ''Panel''; and the first sentence is revised to read as follows:

§ 20.1100 Rule 1100. Finality of decisions of the Board.

(a) *General.* All decisions of the Board will be stamped with the date of mailing on the face of the decision. * * *

* * * * *

Subpart N—Miscellaneous

§ 20.1304 [Amended]

49. In § 20.1304 paragraph (b) is amended by removing the next-to-the-last sentence reading ''The ruling on the motion will be by the Chairman.''.

[FR Doc. 96–11279 Filed 5–6–96; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 095–0008a; FRL–5464–2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a revision to the California State Implementation Plan (SIP). The revision concerns a new rule from the Santa Barbara County Air Pollution Control District (SBCAPCD). This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of oxides of nitrogen (NO_X), oxides of sulfur (SO_X), and volatile organic compounds (VOCs). This rule controls NO_X, SO_X, and VOC emissions from flare and thermal oxidizer stacks at oil and gas production industries. Thus, EPA is finalizing the approval of this rule into the California SIP under provisions of the Federal Clean Air Act, as amended in 1990 (CAA or the Act) regarding EPA action on SIP submittals.

DATES: This action is effective on July 8, 1996 unless adverse or critical comments are received by June 6, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

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

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

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 95814

Santa Barbara County Air Pollution Control District, 26 Casitilian Drive, B–23, Goleta, CA 93117

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Applicability

The rule being approved into the California SIP is SBCAPCD Rule 359, Flares and Thermal Oxidizers. This rule was submitted by the California Air Resources Board (CARB) to EPA on July 13, 1994.

Background

Rule 359 was originally adopted as part of SBCAPCD's 1991 Air Quality Attainment Plan in response to the California Clean Air Act and is not required by any specific provision of the CAA. However, SBCAPCD Rule 359 is consistent with the goals of the CAA and EPA policy. In addition, Rule 359 furthers the goals of the Act by strengthening the SIP. Section 110(a) of the CAA contains general requirements for states to submit enforceable emissions limitations and other control measures as may be necessary or appropriate to achieve the goals of the Act. Rule 359 meets these requirements by controlling NO_X, SO_X, and VOC emissions from flare and thermal oxidizer stacks at oil and gas production facilities.

The State of California submitted many rules for incorporation into its SIP on July 13, 1994, including the rule being acted on in this notice. This notice addresses EPA's direct-final action for SBCAPCD Rule 359, Flares

and Thermal Oxidizers. Santa Barbara County adopted Rule 359 on June 28, 1994. This submitted rule was found to be complete on September 12, 1994 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V [1] and is being finalized for approval into the SIP.

The following is EPA's evaluation and final action for this rule.

EPA Evaluation and Action

In determining the approvability of this rule, EPA must evaluate the rule for consistency with the requirements of the CAA and with EPA policy.

SBCAPCD's submitted Rule 359, Flares and Thermal Oxidizers includes the following requirements:

- Fuel sulfur content limits
- The use of technology-based standards
- A flare minimization plan for all planned flaring activities
- Emergency events documentation
- Proposes pollutant emission limits for continuous, planned flaring at thermal oxidizers and enclosed ground flares
- Source testing
- Requires monitoring, recordkeeping, and reporting

For a detailed evaluation of SBCAPCD Rule 359, please refer to the technical support document (TSD) dated March 20, 1996.

EPA has evaluated the submitted rule and has determined that it is consistent with the goals of the Act, the requirements of 110(a), and EPA policy. Therefore, SBCAPCD Rule 359, Flares and Thermal Oxidizers is being approved into the federally approved SIP because of its beneficial effect on the air quality in the Santa Barbara County area and its strengthening of the SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 8, 1996, unless, by June 6, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective July 8, 1996.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rule being approved by this action will impose no new requirements because affected sources are already subject to this regulation under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 18, 1996.

Felicia Marcus,

Regional Administrator.

Subpart F of 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. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(198)(i)(K)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(198) * * *

(i) * * *

(K) * * *

[1] 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).

(*2*) Rule 359, adopted on June 28, 1994.

* * * * *

[FR Doc. 96–11204 Filed 5–6–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[IL18–7–7024a; FRL–5436–1]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On October 21, 1993, the Illinois Environmental Protection (IEPA) submitted to USEPA volatile organic compound (VOC) rules that were intended to satisfy part of the requirements of section 182(b)(2) of the Clean Air Act (Act) amendments of 1990. Rules submitted at that time include control requirements for certain major sources in the East St. Louis nonattainment area not covered by a Control Technique Guideline (CTG) document. These major non-CTG VOC rules apply to sources which emit (at maximum capacity) 100 tons of VOC per year. These rules provide an environmental benefit due to the imposition of additional control requirements. This rulemaking action approves, in final, Illinois' rules for major non-CTG sources in the East St. Louis nonattainment area. The rationale for the conditional approval is set forth in this final rule; additional information is available at the address indicated below. Elsewhere in this Federal Register, USEPA is proposing approval of and soliciting public comment on this requested revision to the Illinois State Implementation Plan (SIP). If adverse comments are received on this direct final rule, USEPA will withdraw the final rule and address the comments received in a new final rule. Unless this final rule is withdrawn, no further rulemaking will occur on this requested SIP revision.

DATES: This final rule is effective July 8, 1996 unless adverse comments are received by June 6, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision request are available for inspection at the following address: (It is recommended that you telephone Steven Rosenthal at (312) 886–6052 before visiting the Region 5 office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Air Programs Branch (AR–18J) (312) 886–6052.

SUPPLEMENTARY INFORMATION:

Background

Under the Act as amended in 1977, ozone nonattainment areas were required to adopt reasonably available control technology (RACT) for sources of VOC emissions. USEPA issued three sets of control technique guidelines (CTGs) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. USEPA determined that the area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Those areas (including the East St. Louis area) that sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987, were required to adopt RACT for all CTG sources and for all major (100 tons per year or more of VOC emissions) non-CTG sources.

Section 182(b)(2) of the Act as amended in 1990 (amended Act) requires States to adopt reasonably available control technology (RACT) rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the amended Act of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) RACT for all major sources not covered by a CTG. These section 182(b)(2) RACT requirements are referred to as the RACT ''catch-up'' requirements.

The amended Act requires USEPA to issue CTGs for 13 source categories by November 15, 1993. A CTG was published by this date for two source categories—Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation; however, the CTGs for the remaining source categories have not been completed. The amended Act requires States to submit rules for sources covered by a post-enactment CTG in accordance with a schedule specified in a CTG document. Accordingly, States must submit a RACT rule for SOCMI reactor processes and distillation operations before March 23, 1995. Illinois has submitted a rule, covering these SOCMI sources, which will be the subject of a separate rulemaking action.

The USEPA developed a CTG document as Appendix E to the *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.* (57 FR 18070, 18077, April 28, 1992). In Appendix E, USEPA interpreted the Act to allow a State either to submit a non-CTG rule by November 15, 1992, or to defer submittal of a RACT rule for sources that the State anticipated would be covered by a post-enactment CTG, based on the list of CTGs USEPA expected to issue to meet the requirement in section 183. Appendix E states that if USEPA fails to issue a CTG by November 15, 1993 (which it did for 11 source categories), the responsibility shifts to the State to submit a non-CTG RACT rule for those sources by November 15, 1994. In accordance with section 182(b)(2), implementation of that RACT rule should occur by May 31, 1995. Most of these 11 categories are covered by Illinois' ''generic'' major non-CTG rules that are the subject of this document.

On October 21, 1993, IEPA submitted VOC rules for the East St. Louis ozone moderate nonattainment area [1] and a revision to these major non-CTG control requirements was submitted to USEPA on May 26, 1995. Most of those rules, including those which deal with source categories covered by CTGs, (and the related test methods, definitions and recordkeeping requirements) were approved by USEPA on September 9, 1994 (59 FR 46562). This document deals with those major non-CTG rules for the East St. Louis area which are intended to largely satisfy the major non-CTG control requirements of sections 182(a)(2)(A) and 182(b)(2). However, this October 21, 1993, submittal exempts bakeries and sewage treatment plants from these major non-CTG regulations. Major non-CTG regulations are, therefore, required for any major bakeries and industrial wastewater treatment plants in the East St. Louis area.

[1] The East St. Louis moderate ozone nonattainment area consists of Madison, Monroe, and St. Clair counties.