document corrects this national stage fee amount for fiscal year 1999.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Matthew Lee by telephone at (703) 305–8051, fax at (703) 305–8007, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Office of Finance, Crystal Park 1, Suite 802, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office published a final rule entitled ''Revision of Patent Fees for Fiscal Year 1999'' in the **Federal Register** of July 24, 1998 (63 FR 39731). The final rule contains an error for a national stage fee in section 1.492(a)(5). The fee amount for fiscal year 1999 was incorrectly stated as $395.00 for a small entity, and $790.00 for other than a small entity. This correction revises this national stage fee amount.

In the ''Revision of Patent Fees for Fiscal Year 1999'' final rule that was published in the **Federal Register** of July 24, 1998 (63 FR 39731), make the following correction. On page 39734, in the third column, change the national stage fee amount for section 1.492(a)(5) to $345.00 for a small entity, and $690.00 for other than a small entity.

Dated: August 28, 1998.

Kenneth R. Corsello,

Associate Solicitor.

[FR Doc. 98–23682 Filed 9–2–98; 8:45 am]

BILLING CODE 3510–16–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 102–0091a; FRL–6150–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the California State Implementation Plan (SIP). The revision concerns Yolo-Solano Air Quality Management District's (YSAQMD) Rule 2.34. This rule controls oxides of nitrogen (NO_X) from stationary gas turbines. This action will incorporate the rule into the Federally approved SIP. The intended effect of approving this rule is to regulate emissions of NO_X in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA is finalizing the approval of this rule into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This direct final rule is effective on November 2, 1998. without further notice, unless EPA receives adverse comments by October 5, 1998. If EPA received such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Rulemaking Office (AIR–4), Air 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 95812.

Yolo-Solano Air Quality Management District, 1947 Galileo court, Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being approved into the California SIP includes YSAQMD's, Rule 2.34, Stationary Gas Turbines. This rule was submitted by the California Air Resources Board (CARB) to EPA on September 28, 1994.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA or the Act) were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of NO_X emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a proposed rule entitled ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement) which describes the requirements of section 182(f). The November 25, 1992, proposed rule should be referred to for further information on the NO_X requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_X (''major'' as defined in section 302 and section 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. The Sacramento Metro Area in which the YSAQMD is located, is classified as serious;[1] therefore this area was subject to the RACT requirements of section 182(b)(2), cited below, and the November 15, 1992 deadline.

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

On September 28, 1994, the State of California submitted to EPA YSAQMD's Rule 2.34, Stationary Gas Turbines, which was adopted by YSAQMD on July 13, 1994. This submitted rule was found to be complete on October 21, 1994 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V[2] and is being finalized for approval into the SIP. By today's document, EPA is taking direct final action to approve this submittal. This final action will incorporate this rule into the Federally approved SIP.

NO_X emissions contribute to the production of ground level ozone and

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[1] Sacramento Metro Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[2] 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).

smog. YSAQMD's Rule 2.34 controls emissions of NO_X from stationary gas turbines. The rule was adopted as part of YSAQMD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and final action for this rule.

III. EPA Evaluation and Action

In determining the approvability of a NO_X rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110, and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents.[3] Among these provisions is the requirement that a NO_X rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_X emissions.

For the purposes of assisting State and local agencies in developing NO_X RACT rules, EPA prepared the NO_X Supplement to the General Preamble, cited above (57 FR 55620). In the NO_X Supplement, EPA provides guidance on how RACT will be determined for stationary sources of NO_X emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_X (see section 4.5 of the NO_X Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for categories of stationary sources of NO_X. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_X. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_X. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_X RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

There is currently no version of YSAQMD's Rule 2.34, Stationary Gas Turbines in the SIP. Rule 2.34 applies to all stationary gas turbines with a power rating equal to or greater than 0.3 megawatt (MW).

The CARB, after reviewing statewide control measures and several district rules, developed a RACT and BARCT guidance document entitled, ''Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for the Control of Oxides of Nitrogen from Stationary Gas Turbines'' (RACT/BARCT determination).

CARB's RACT/BARCT determination specified RACT limits of 42 ppmv (gas-fired) and 65 ppmv (oil-fired) for units rated equal to 0.3 MW and greater. These limits are also specified as BARCT limits for units equal to 0.3 MW and less than 2.9 MW, and units that are greater than or equal to 4 MW and operating less than 877 hours per year. For units equal to 2.9 and less than 10 MW, the BARCT limits are 25 ppmv (gas-fired) and 65 ppmv (oil-fired). For units greater than or equal to 10 MW with SCR, the BARCT limits are 9 ppmv (gas-fired) and 25 ppmv (oil-fired); those without SCR are 15 ppmv (gas-fired) and 42 ppmv (oil-fired). The BARCT limits are corrected to 15 percent oxygen on a dry basis and to turbine efficiency except those 42 ppmv (gas-fired) and 65 ppmv (oil-fired) limits and oil-fired units equal to 0.3 and less than 10 MW. The emission limits in CARB's RACT/BARCT determination are generally comparable to those specified in the NO_X Supplement for electric utility boilers.

Rule 2.34 incorporates CARB's BARCT limits for gas turbines which are more stringent than RACT limits. The rule contains adequate recordkeeping requirements, and the appropriate test methods for compliance determination are referenced. The rule is consistent with all the guidance's other requirements. The exemptions provided in the rule are consistent with EPA guidelines. Therefore, Rule 2.34 meets the federal RACT By meeting the above requirements.

In evaluating the rule, EPA must determine whether the requirement for RACT implementation by May 31, 1995 is met. The rule was written such that final compliance is not required until July 13, 1998. Under certain circumstances, the determination of what constitutes RACT could include consideration of advanced control technologies, i.e., California's requirement for BARCT. In this case the CAA's May 1995 date for RACT implementation may be satisfied in BARCT rules that establish ''interim RACT'' by May 1995, and require emission limitations based on advanced control technologies such as BARCT be met after May 1995.

Rule 2.34 meets EPA's RACT guidance for emission limits and milestone towards final compliance by requiring that BARCT be implemented by July 13, 1998, and that interim measures including a compliance plan, an application for authority to construct, and start and completion of construction be met to ensure progress toward compliance with the final emission limits of the rule. A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Document (TSD) for Rule 2.34, dated July 31, 1998.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations and EPA policy. Therefore, YSAQMD's Rule 2.34, Stationary Gas Turbines is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_x Supplement to the General Preamble.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State 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 rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective November 2, 1998 without further notice unless the Agency receives adverse comments by October 5, 1998.

If the EPA received such comments, then EPA will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in

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

commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 2, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

This final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

B. Regulatory Flexibility Act

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 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies 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 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).

C. 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 approval action promulgated 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 Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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. 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**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

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 November 2, 1998. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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: August 13, 1998.

Laura Yoshi,

Deputy 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)(199)(i)(E)(*1*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(199) * * *

(i) * * *

(E) Yolo-Solano Air Quality Management District

(*1*) Rule 2.34, adopted on July 13, 1994

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[FR Doc. 98–23500 Filed 9–2–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–104–9818a; FRL–6152–9]

Approval and Promulgation of Implementation Plans; Commonwealth of Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Edmonson County and Owensboro portions of the Kentucky State Implementation Plan (SIP) submitted on April 16, 1998, through the Kentucky Natural Resources and Environmental Protection Cabinet (NREPC). The purpose of this action is to incorporate revised motor vehicle emissions budgets for Owensboro and Edmonson, Kentucky. These budgets are used for demonstration of conformity of transportation plans, programs, and projects with the Kentucky SIP for the Edmonson County and Owensboro ozone maintenance areas. This action is