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 (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This 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 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 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 Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated 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.

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

G. 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. 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).

H. 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 April 12, 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, 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: January 14, 1999.

Felicia Marcus,

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)(245)(i)(C)(*1*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(245) * * *

(i) * * *

(C) Monterey Bay Unified Air Pollution Control District.

(*1*) Rule 430, amended on January 15, 1997.

* * * * *

[FR Doc. 99–2791 Filed 2–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207–0114a; FRL–6229–7]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; Amador County Air Pollution Control District and Northern Sonoma County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the Amador County Air Pollution Control District (ACAPCD) and the Northern Sonoma County Air Pollution Control District (NSCAPCD). This action will remove these rules from the federally approved SIP. The intended effect of this action is to remove rules from the SIP in accordance with the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the removal of these rules from the California SIP under provisions of the CAA regarding EPA action on SIP submittals and SIPs for national primary and secondary ambient air quality standards.

DATES: This rule is effective on April 12, 1999, without further notice, unless EPA receives adverse comments by March 11, 1999. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of these rules, along with EPA's evaluation

report for each rule, are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted requests for rescission 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, SW, Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

Amador County Air Pollution Control District, 500 Argonaut Lane, Jackson, CA 95642.

Northern Sonoma County Air Pollution Control District, 150 Matheson Street, Healdsburg, CA 95448–4908.

FOR FURTHER INFORMATION CONTACT:

Yvonne Fong, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION:

I. Applicability

The ACAPCD rules being removed from the California SIP are: Rule 213.2, Organic Solvents; and Rule 213.3, Disposal and Evaporation of Solvents. The NSCAPCD rules being removed from the California SIP are: Rule 56, Sulfide Emission Standard; Rule 64, Organic Solvents; Rule 64.1, Architectural Coatings; and Rule 64.2, Disposal and Evaporation of Solvents. The ACAPCD adopted Rules 213.2 and 213.3 on July 18, 1972 and repealed them on June 16, 1981. The NSCAPCD adopted Rules 56, 64, 64.1, and 64.2 on June 30, 1972 and repealed them on November 10, 1976. On September 30, 1997 and October 7, 1997, the ACAPCD and NSCAPCD's Boards of Directors respectively adopted resolutions requesting the removal of these rules from the California SIP. The California Air Resources Board (CARB) submitted to EPA both Districts' requests for removal of these rules from the SIP on March 10, 1998.

II. Background

On March 3, 1978, EPA promulgated a list of the ozone and sulfur dioxide attainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act). 43 FR 8964, 40 CFR 81.305. The Amador County Area was included among the areas in attainment for ozone and the North Coast Air Basin Area, which encompasses Northern Sonoma County, was included among the areas in attainment for ozone and sulfur dioxide. The rules being addressed in this action were originally adopted by the ACAPCD and the NSCAPCD as part of their efforts to maintain the National Ambient Air Quality Standard (NAAQS) for ozone and sulfur dioxide. These rules were originally adopted to control volatile organic compound (VOC) emissions from organic solvents, architectural coatings, and the disposal and evaporation of solvents and to provide a sulfide emission standard. Because the Amador County and North Coast Air Basin Areas have never been classified as nonattainment pursuant to Section 107 of the Act for the pollutants listed above, these rules were not required by the Act. The ACAPCD and NSCAPCD removed these rules from their district rule books on June 16, 1981 and November 10, 1976, respectively. The ACAPCD and NSCAPCD have certified through resolutions adopted by their Boards of Directors on September 30, 1997 and October 7, 1997 that rescission of these rules will not result in emissions increases or otherwise interfere with any applicable provisions of the CAA.

On March 10, 1998, ACAPCD and NSCAPCD submitted requests to EPA, through CARB, for the removal of ACAPCD Rules 213.2 and 213.3 and NSCAPCD Rules 56, 64, 64.1, and 64.2 from the California SIP.

III. EPA Action

The following ACAPCD rules rescinded by today's action were previously approved into the California SIP by EPA:

—Rule 213.2, Organic Solvents, adopted July 18, 1972, approved January 24, 1978 (43 FR 3275).

—Rule 213.3, Disposal and Evaporation of Solvents, adopted July 18, 1972, approved January 24, 1978 (43 FR 3275).

The following NSCAPCD rules rescinded by today's action were previously approved into the California SIP by EPA:

—Rule 56, Sulfide Emission Standard, adopted June 30, 1972, approved September 22, 1972 (37 FR 19812).

—Rule 64, Organic Solvents, adopted June 30, 1972, approved September 22, 1972 (37 FR 19812).

—Rule 64.1, Architectural Coatings, adopted June 30, 1972, approved September 22, 1972 (37 FR 19812).

—Rule 64.2, Disposal and Evaporation of Solvents, adopted June 30, 1972, approved September 22, 1972 (37 FR 19812).

EPA is publishing this document 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 these SIP revisions should adverse comments be filed. This rule will be effective April 12, 1999, without further notice unless the Agency receives adverse comments by March 11, 1999.

If EPA receives such comments, then EPA will publish a document withdrawing this final rule and 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 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 rule will be effective on April 12, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under E.O. 12875, Enhancing the Intergovernmental Partnership, 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 duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, Consultation and Coordination with Indian Tribal Governments, 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 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. 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 (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities, but will simply remove previously-approved SIP requirements that are no longer in effect. 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 Clean Air Act, 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).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to the 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 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 pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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. 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).

H. 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 April 12, 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds, Sulfur oxides.

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: January 25, 1999.

Laura Yoshii,

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 paragraphs (c)(6)(xvi) and (c)(31)(xviii)(E) to read as follows:

§ 52.220 Identification of Plan.

* * * * *

(c) * * *

(6) * * *

(xvi) Northern Sonoma County Air Pollution Control District.

(A) Previously approved on September 22, 1972 and now deleted without replacement Rules 56, 64, 64.1 and 64.2.

* * * * *

(31) * * *

(xviii) * * *

(E) Previously approved on January 24, 1978 and now deleted without replacement Rules 213.2 and 213.3.

* * * * *

[FR Doc. 99–2782 Filed 2–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0019a; FRL–6216–6]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revision to Regulation No. 7, Section III, General Requirements for Storage and Transfer of Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the revision to the Colorado State Implementation Plan (SIP) as submitted by the Governor on April 22, 1996. The revision consists of the addition of paragraph C to section III, ''General Requirements for Storage and Transfer of Volatile Organic Compounds,'' of Regulation No. 7, ''Regulation To Control Emissions of Volatile Organic Compounds.'' This new paragraph C to section III exempts beer production and associated beer container storage and transfer operations involving volatile organic compounds (VOC) with a true vapor pressure of less than 1.5 pounds per square inch atmosphere (psia), at actual conditions, from the submerged or bottom-fill requirements of section III. B. EPA's approval will serve to make this revision federally enforceable and was requested by the Governor.

DATES: This direct final rule is effective on April 12, 1999 without further notice, unless EPA receives adverse comment by March 11, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program (8P–AR), United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following office: United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; and, the Air and Radiation Docket and Information Center, United States Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program (8P–AR), United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466 Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION:

I. Background to the Action

A. Brief History on the Development of Colorado's Regulation No. 7 (Reg. 7)

On March 3, 1978, EPA designated the Denver-Boulder metropolitan area as nonattainment for the National Ambient Air Quality Standards (NAAQS) for ozone (43 FR 8976). This designation was reaffirmed by EPA on November 6, 1991 (56 FR 56694) pursuant to section 107(d)(1) of the CAA, as amended in 1990. Furthermore, since the Denver-Boulder area had not shown a violation of the ozone standard during the three-year period from January 1, 1987 to December 31, 1989, the Denver-Boulder area was classified as a ''transitional'' ozone nonattainment area under section 185A of the amended Act.

The current Colorado Ozone SIP was approved by EPA in the **Federal Register** on December 12, 1983 (48 FR 55284). The SIP contains Reg. 7 which applies RACT to stationary sources of VOCs. Reg. 7 was adopted to meet the requirements of Section 172(b)(2) and (3) of the 1977 CAA (concerning the application of RACT to stationary sources [1].)

[1] The requirement to apply RACT to existing stationary sources in a nonattainment area was carried forth under the amended Act in section 172(c)(1).

During 1987 and 1988, EPA Region VIII conducted a review of Reg. 7 for consistency with the Control Techniques Guidelines documents (CTGs) and regulatory guidance, for enforceability and for clarity. The CTGs, which are guidance documents issued by EPA, set forth measures that are presumptively RACT for specific categories of sources of VOCs. A substantial number of deficiencies were identified in Reg. 7. In 1987, EPA published a proposed policy document that included, among other things, an interpretation of the RACT requirements as they applied to VOC nonattainment areas (see 52 FR 45044, November 24, 1987). On May 25, 1988, EPA published a guidance document entitled ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of the November 24, 1987 **Federal Register** Notice'' (the ''Blue Book''). A review of Reg. 7 against these documents uncovered additional deficiencies in the regulation.

By a letter dated September 27, 1989, the Governor submitted revisions to Reg. 7 that partially addressed EPA's concerns. By a letter dated August 30, 1990, the Governor submitted additional revisions to Reg. 7 that addressed EPA's remaining concerns with the September 27, 1989, SIP revision.

On May 30, 1995, EPA published a final rule in the **Federal Register** (60 FR 28055) that fully approved the Governor's September 27, 1989, and August 30, 1990, revisions to Reg. 7. The final rule became effective on June 29, 1995.

B. Background Material Regarding the New Exemption to Section III ''General Requirements for Storage and Transfer of Volatile Organic Compounds'' of Reg. 7

Section III of Reg. 7 contains the following language in paragraph III. B which relates to the transfer of VOCs: ''Except as otherwise provided in this regulation, all volatile organic compounds transferred to any tank, container, or vehicle compartment with a capacity exceeding 212 liters (56 gallons), shall be transferred using submerged or bottom filling equipment. For top loading, the fill tube shall reach within six inches of the bottom of the tank compartment. For bottom-fill operations, the inlet shall be flush with the tank bottom.''

In June of 1994, the Colorado Association of Commerce and Industry (CACI) sought an exemption to the section III. B submerged/bottom-fill requirements of Reg. 7. One of CACI's members, Coors Brewing Company of