This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order 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 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. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's proposed action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: March 30, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00–9392 Filed 4–14–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 226–0235; FRL–6578–5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and a simultaneous limited disapproval of revisions to the California State Implementation Plan (SIP) for the Tehama County Air Pollution Control District (TCAPCD). The revisions concern Rule 4.31—Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters, Rule 4.34—Stationary Piston Engines, and Rule 4.37—Determination of Reasonably Available Control Technology for the Control of Oxides of Nitrogen from Stationary Gas Turbines.

The intended effect of proposing limited approval and a simultaneous limited disapproval of the rules 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's final action on the proposed rules will incorporate the rules into the federally approved SIP. EPA has evaluated the rules and is proposing a limited approval and a simultaneous limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because these revisions do not fully meet the CAA provisions regarding unapprovable executive officer discretion.

DATES: Comments must be received on or before May 17, 2000.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

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

Tehama County APCD, P.O. Box 38 (1750 Walnut Street) Red Bluff, CA 96080

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1160.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being proposed for limited approval and a simultaneous limited disapproval into the California SIP are Tehama County Air Pollution Control District (TCAPCD) Rule 4.31—Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters, Rule 4.34—Stationary Piston Engines, and Rule 4.37—Determination of Reasonably Available Control Technology for the Control of Oxides of Nitrogen from Stationary Gas Turbines. Rules 4.31, 4.34 and 4.37 were submitted by the State of California to EPA on May 13, 1999.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.

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). The November 25, 1992, action should be referred to for further information on the NO_X requirements for SIPs.

This document addresses EPA's proposed action for Tehama County Air Pollution Control District (TCAPCD) Rule 4.31, adopted by the TCAPCD on March 14, 1995, Rule 4.34 on June 3, 1997, and Rule 4.37 on April 21, 1998. The State of California submitted Rules 4.31, 4.34 and 4.37 to EPA on May 13, 1999. Rules 4.31, 4.37 and 4.34 were found to be complete on May 26, 1999, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.[1]

NO_X emissions contribute to the production of ground level ozone and smog. TCAPCD Rules 4.31, 4.34, and 4.37 specify NO_X emission standards and were originally adopted as part of TCAPCD's effort to maintain the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for the rules.

III. EPA Evaluation and Proposed 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 today's action, appears in the NO_X Supplement (57 FR 55620) and various other EPA policy guidance documents.[2]

For the purpose of assisting State and local agencies in developing NO_X RACT rules, EPA prepared the NO_X Supplement to the General Preamble. In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all 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.

California Air Resources Board (CARB), developed a guidance document entitled Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Institutional, Industrial and Commercial Boilers, Steam Generators and Process Heaters, July 18, 1991. EPA has used CARB's guidance document in evaluating Rule 4.31. In addition, the CARB has developed a guidance document entitled, ''Proposed Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Stationary Internal Combustion Engines,'' Dec. 3, 1997. EPA has used CARB's proposed Determination, dated Dec. 3, 1997, in evaluating Rule 4.34. CARB has developed a guidance document entitled Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology (BARCT) for Control of Oxides of Nitrogen from Stationary Gas Turbines, dated May 18, 1992. EPA has used CARB's guidance document in evaluating Rule 4.37. 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 rules meet Federal requirements and are fully enforceable and strengthen or maintain the SIP.

There are currently no versions of Rules 4.31, 4.34, and 4.37 in the SIP.

Submitted Rules 4.31, 4.34, and 4.37 include the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO_X).
- Compliance and monitoring requirements including compliance schedule, reporting requirements, monitoring and recordkeeping, and test methods.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, recordkeeping, and compliance testing in addition to guidance regarding emission limits.

EPA has evaluated Tehama County Air Pollution Control District Rules 4.31, 4.34, and 4.37 for consistency with the CAA, EPA regulations, and EPA policy and has found that submitted Rules 4.31, 4.34, and 4.37 supercede TCAPCD Rule 4.14, and contain the following significant modifications from Rule 4.14, which are deficiencies, which must be corrected pursuant to the section 182(a)(2)(A) requirement of part D of the CAA.

Rule 4.31

- *Section C.4.: Exemptions:* contains unapprovable APCO discretion for units that are exempt from emission requirements due to lack of technical or economic feasibility. Paragraph C. 4. should be deleted.
- *Section F.1.: Compliance schedule:* Allows unapprovable APCO discretion as to schedule of periodic compliance determinations. The words ''as specified by the APCO'' should be removed and replaced with ''once every 2 years, or after 8760 hours of operation, which ever is more frequent.''

Rule 4.34

- *Section G.2:* Allows APCO discretion in approving the use of alternate portable analyzers.(Also, the note on bottom of page IV–6 of the Rule requires an asterisk.)

Rule 4.37

- *Section D.1.c.:* Allows APCO discretion as to approval of units that are exempt from RACT emission requirements due to lack of technical or economic feasibility. This section ''c.'' should be removed.

A detailed discussion of these deficiencies can be found in the Technical Support Documents for Rules 4.31, 4.34, and 4.37, dated January 25, 2000, which are available from the U.S.

[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] ''Issues Relating to VOC regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register** Document'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

EPA, Region IX office. Because of these deficiencies, EPA cannot grant approval of the rules under section 110(k)(3) and part D. In order to strengthen the SIP, EPA is proposing a limited approval and a simultaneous limited disapproval of TCAPCD's submitted Rules 4.31, 4.34, and 4.37 under sections 110(k)(3) and 301(a) of the CAA because they contain deficiencies which must be corrected in order to fully meet the requirements of sections 182(a)(2), 182(b)(2), 182(f), of part D of the CAA. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rules covered by this document have been adopted by the Tehama County Air Pollution Control District and are currently in effect in the Tehama County Air Pollution Control District. EPA's final disapproval action will not prevent the Tehama County Air Pollution Control District or EPA from enforcing the rule.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under Executive Order 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, Executive Order 12875 requires EPA to provide to the Office of Management and Budget 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, Executive Order 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 rules do not create a mandate on State, local or tribal governments. The rules do not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 does not apply to the 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 Executive Order 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. The rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 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, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, 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, Executive Order 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 rules does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to the rules.

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. The proposed rules 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 rules.

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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: April 3, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00–9395 Filed 4–14–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 226–0233; FRL–6578–3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Tehama Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the California State Implementation Plan (SIP) for ozone. The revision concerns the control of oxides of nitrogen (NO_X) for the Tehama Air Pollution Control District (TCAPCD). The revision concerns TCAPCD Rule 4.14 for the control of oxides of nitrogen (NO_X) emissions from fuel burning equipment. The intended effect of proposing approval of 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's final action on this proposed rule will incorporate this rule into the Federally approved SIP. EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

DATES: Comments must be received on or before May 17, 2000.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report of the rule 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:

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.

Tehama County APCD, P.O. Box 38 (1750 Walnut Street) Red Bluff, CA 96080.

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1160.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being proposed for approval into the California SIP is Tehama Air Pollution Control District Rule 4.14, Fuel Burning Equipment. Rule 4.14 was submitted by the State of California to EPA on May 13, 1999.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.

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). The NO_X Supplement should be referred to for further information on the NO_X requirements.

This document addresses EPA's proposed action for Tehama Air Pollution Control District Rule 4.14, Fuel Burning Equipment, adopted by the TCAPCD on November 3, 1998. The State of California submitted Rule 4.14 to EPA May 13, 1999. Rule 4.14 was found to be complete on May 26, 1999, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.[1]

NO_X emissions contribute to the production of ground level ozone and smog. TCAPCD Rule 4.14 specifies exhaust emission standards for NO_X, and was originally adopted as part of TCAPCD's effort to maintain the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for the rule.

III. EPA Evaluation and Proposed 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 today's action, appears in the NO_X Supplement (57 FR 55620) and various other EPA policy guidance documents.[2]

The California Air Resources Board (CARB) has developed a guidance document entitled, ''California Clean Air Act Guidance, Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Institutional, Industrial and Commercial Boilers, Steam Generators and Process Heaters,'' July 18, 1991. EPA has used CARB's Determination, dated July 18, 1991, in evaluating Rule 4.14 for consistency with the CAA's requirements. In general, EPA uses the guidance documents cited above, as well as other relevant and applicable guidance documents, to ensure that submitted NO_X rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

There is currently a July 12, 1990, EPA approved (55 FR 28624) version of Tehama County Air Pollution Control District Rule 4.14, Fuel Burning Equipment, in the SIP. Submitted Rule 4.14 includes the following provisions:

- General provisions including applicability, exemptions, and definitions.

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[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] ''Issues Relating to VOC regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register** document'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).