the Copyright Office requested public comment on the proposed rates and terms in a notice published in the **Federal Register**. 63 FR 71249 (December 24, 1998).

The Copyright Office received no comments opposing the rates and terms for the delivery of digital phonorecords set forth in the December 24, 1998, **Federal Register** notice. Therefore, by this notice, the Librarian is adopting and the Copyright Office is announcing final regulations which set the rate for the delivery of digital phonorecords in general and defer until the next scheduled rate adjustment proceeding further consideration of the royalty rate for the delivery of a digital phonorecord where the reproduction or distribution is incidental to the transmission which constitutes a digital phonorecord delivery.

List of Subjects in 37 CFR Part 255

Copyright, Recordings.

For the reasons set forth in the preamble, the Library amends 37 CFR part 255 as follows:

PART 255—ADJUSTMENT OF ROYALTY PAYABLE UNDER COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHONORECORDS

1. The authority citation for part 255 continues to read as follows:

Authority: 17 U.S.C. 801(b)(1) and 803.

2. Revise § 255.5 to read as follows:

§ 255.5 Royalty rate for digital phonorecord deliveries in general.

(a) For every digital phonorecord delivery made on or before December 31, 1997, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 6.95 cents, or 1.3 cents per minute of playing time or fraction thereof, whichever amount is larger.

(b) For every digital phonorecord delivery made on or after January 1, 1998, except for digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the digital phonorecord delivery, as specified in 17 U.S.C. 115(c)(3)(C) and (D), the royalty rate payable with respect to each work embodied in the phonorecord shall be the royalty rate prescribed in § 255.3 for the making and distribution of a phonorecord made and distributed on the date of the digital phonorecord delivery (the ''Physical Rate''). In any future proceeding under 17 U.S.C. 115(c)(3)(C) or (D), the royalty rates payable for a compulsory license for digital phonorecord deliveries in general shall be established de novo, and no precedential effect shall be given to the royalty rate payable under this paragraph for any period prior to the period as to which the royalty rates are to be established in such future proceeding.

3. Add §§ 255.6 through 255.8 to read as follows:

§ 255.6 Royalty rate for incidental digital phonorecord deliveries.

The royalty rate for digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes a digital phonorecord delivery, as specified in 17 U.S.C. 115(c)(3)(C) and (D), is deferred for consideration until the next digital phonorecord delivery rate adjustment proceeding pursuant to the schedule set forth in § 255.7; provided, however, that any owner or user of a copyrighted work with a significant interest in such royalty rate, as provided in 17 U.S.C. 803(a)(1), may petition the Librarian of Congress to establish a rate prior to the commencement of the next digital phonorecord delivery rate adjustment proceeding. In the event such a petition is filed, the Librarian of Congress shall proceed in accordance with 17 U.S.C. 115(c)(3)(D), and all applicable regulations, as though the petition had been filed in accordance with 17 U.S.C. 803(a)(1).

§ 255.7 Future proceedings.

The procedures specified in 17 U.S.C. 115(c)(3)(C) shall be repeated in 1999, 2001, 2003, and 2006 so as to determine the applicable rates and terms for the making of digital phonorecord deliveries during the periods beginning January 1, 2001, 2003, 2005, and 2008. The procedures specified in 17 U.S.C. 115(c)(3)(D) shall be repeated, in the absence of license agreements negotiated under 17 U.S.C. 115(c)(3)(B) and (C), upon the filing of a petition in accordance with 17 U.S.C. 803(a)(1), in 2000, 2002, 2004, and 2007 so as to determine new rates and terms for the making of digital phonorecord deliveries during the periods beginning January 1, 2001, 2003, 2005, and 2008. Thereafter, the procedures specified in 17 U.S.C. 115(c)(3)(C) and (D) shall be repeated in each fifth calendar year. Notwithstanding the foregoing, different years for the repeating of such proceedings may be determined in accordance with 17 U.S.C. 115(c)(3)(C) and (D).

§ 255.8 Public performances of sound recordings and musical works.

Nothing in this part annuls or limits the exclusive right to publicly perform a sound recording or the musical work embodied therein, including by means of a digital transmission, under 17 U.S.C. 106(4) and 106(6).

Dated: January 29, 1999.

Marybeth Peters,

Register of Copyrights.

James H. Billington,

The Librarian of Congress.

[FR Doc. 99–3119 Filed 2–8–99; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–011–0071; FRL–6229–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; North Coast Unified Air Quality Management 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 to approve revisions to the California State Implementation Plan (SIP). This action is an administrative change which revises the definitions in North Coast Unified Air Quality Management District (NCUAQMD) and Northern Sonoma County Air Pollution Control District (NSCAPCD) Rules 130, Definitions. The intended effect of approving this action is to incorporate changes to the definitions for clarity and consistency with revised federal and state definitions. This approval action will incorporate these definitions into the Federally approved SIP. Thus, EPA is finalizing the approval of these revisions 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 rule is effective on April 12, 1999, without further notice, unless EPA receives relevant 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: Written comments on this action should be addressed to: Andrew

Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. Copies of the rule revisions and EPA's existing SIP approved rule is available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions 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.

North Coast Unified Air Quality Management District, 2300 Myrtle Avenue, Eureka, CA 95501.

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

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1189.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: North Coast Unified Air Quality Management District, Rule 130 and Northern Sonoma County Air Pollution Control District, Rule 130. These rules were submitted by the California Air Resources Board to EPA on December 31, 1990 and May 18, 1998 (North Coast Unified) and March 10, 1998 (Northern Sonoma).

II. Background

On March 3, 1978, EPA promulgated a list of nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that listed NCUAQMD and NSCAPCD as attainment or unclassifiable for all pollutants, see 43 FR 8964, 40 CFR 81.305. In response to Section 110(a) of the Act and other requirements, the NCUAQMD and NSCAPCD submitted many rules which EPA approved into the SIP.

This document addresses EPA's direct-final action for the following NCUAQMD and NSCAPCD rules: Rule 130, Definitions. These rules were adopted by NCUAQMD on December 7, 1989 and September 26, 1997 and by NSCAPCD on July 25, 1995, and submitted by the State of California for incorporation into its SIP on December 31, 1990 and May 18, 1998 (North Coast Unified) and on March 10, 1998 (Northern Sonoma). These rules were found to be complete on February 28, 1991 and July 17, 1998 (North Coast Unified) and on May 21, 1998 (Northern Sonoma), pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, Appendix V [1] and are being finalized for approval into the SIP. These rules were originally adopted as part of NCUAQMD and NSCAPCD's efforts to achieve and maintain the National Ambient Air Quality Standards (NAAQS).

The following are EPA's summary and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a 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.[2]

EPA previously reviewed many rules from the NCUAQMD and NSCAPCD and incorporated them into the federally approved SIP pursuant to section 110(k)(3) of the CAA. Those definitions that are being superseded by today's action are as follows:

- North Coast Unified AQMD. Rule 130, Definitions (submitted 11/10/76, 05/23/79, 03/23/81, 03/14/84, 08/14/84, 10/19/84)
- Northern Sonoma County APCD. Rule 130, Definitions (submitted 11/10/76, 10/19/84, 10/16/85)

NCUAQMD Rule 130, Definitions, has been revised to include the following new definitions: (b1) Baseline/Impact Area, (b2) Baseline Concentration, (b2) Best Available Control Technology (BACT), (e2) Episode Alert, (n1) Net Increase In Emissions, (p2) Permit, (p4) Potential to Emit, (p6) Precursor, (s3) Smelt Dissolving Tank, (s4) Stacking, and (t2) Toxic Air Contaminants. Administrative and other minor changes have also been made to some SIP approved definitions for clarity and consistency with revised federal and state definitions.

NSCAPCD Rule 130, Definitions, has been revised to include the following new definitions: (b1) Baseline Concentration, (b2) Base Unit, (b3) Best Available Control Technology (BACT), (e2) Episode Alert, (m1) Modeling, (n1) Net Increase In Emissions, (p2) Permit, (p4) Potential to Emit, (p6) Precursor, (p7) Prevention of Significant Deterioration (PSD) Increment, (s2) Significant, (s3) Small Business, (s4) Smelt Dissolving Tank, (s5) Stacking, (s9) Steam Generating Unit, and (t2) Toxic Air Contaminant (TAC). Administrative and other minor changes have also been made to some SIP approved definitions for clarity and consistency with revised federal and state definitions.

EPA has evaluated the submitted rules and has determined that they allow proper implementation of rules previously approved into the SIP, and do not relax the requirements of those rules. Therefore, NCUAQMD and NSCAPCD Rules 130, Definitions, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. Future action by EPA on prohibitory, new source review, or other NCUAQMD and NSCAPCD rules may require changes to these definitions. We are not, however, aware of any such necessary change at this time.

EPA is publishing these rules 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 relevant adverse comments be filed. This rule will be effective April 12, 1999 without further notice unless the Agency receives relevant adverse comments by March 11, 1999.

If the EPA received such comments, then EPA will publish a document withdrawing the 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

[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] 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).

rule will be effective on April 12, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

Executive Order 12866

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

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must 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 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, EPA may not issue a regulation that is not required by statute, that significantly affects 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. If the mandate is unfunded, EPA must 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 and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (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 Administration 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 4, 1999.

Laura Yoshii,

Regional Administrator, EPA 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: 41 U.S.C. 7401 et seq.

2. Section 52.220 is amended by adding paragraphs (c)(254)(i)(B)(*1*) and (255)(i)(B)(*1*).

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(254) * * *

(i) * * *

(B) Northern Sonoma County Air Pollution Control District.

(*1*) Rule amended on July 25, 1995.

* * * * *

(255) * * *

(i) * * *

(B) North Coast Unified Air Quality Management District.

(*1*) Rule 130 amended September 26, 1997.

* * * * *

[FR Doc. 99–2793 Filed 2–8–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 194–0125a; FRL–6226–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Monterey Bay Unified Air Pollution Control 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 Monterey Bay Unified Air Pollution Control District's (MBUAPCD) Rule 430. This rule controls emissions of volatile organic compounds (VOC) from leather processing operations. This action will incorporate the rule into the Federally approved SIP. The intended effect of approving this rule is to regulate emissions of VOC 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 revision into 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 direct final rule is effective on April 12, 1999, without further notice, unless EPA receives adverse comments by March 11, 1999. If EPA receives 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 revision 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 revisions 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.

Monterey Bay Unified Air Pollution Control District, Rule Development, 24580 Silver Cloud Ct., Monterey, CA 93940–6536.

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) 744–1191.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being approved into the California SIP includes MBUAPCD's Rule 430, Leather Processing Operations. This rule was submitted by the California Air Resources Board (CARB) to EPA on March 26, 1997.

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. 40 CFR part 81.305 provides the attainment status designations for air districts in California. MBUAPCD is listed as being in attainment for the National Ambient Air Quality Standards (NAAQS) for ozone; therefore stationary sources in the air district are not subject to the Reasonably Available Control Technology (RACT) requirements of section 182(b)(2).

On March 26, 1997, the State of California submitted to EPA MBUAPCD's Rule 430, Leather Processing Operations which was amended by MBUAPCD on January 15, 1997. This submitted rule was found to be complete on August 6, 1997 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. 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.

VOC emissions contribute to the production of ground level ozone and smog. MBUAPCD's Rule 430 controls emissions of VOC from leather processing operations. The rule was adopted as part of MBUAPCD's effort to maintain attainment of the National Ambient Air Quality Standards (NAAQS) for ozone. The following is EPA's evaluation and final action for this rule.

III. EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5824) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).