existing indebtedness secured by a property which has been constructed, rehabilitated, or reconstructed. The purpose of this document is to make the necessary correction.

EFFECTIVE DATE: October 7, 1996.

SUPPLEMENTARY INFORMATION: On July 3, 1996, President Clinton signed into law the ''Church Arson Prevention Act of 1996'' (Pub. L. 104–155) (the Act). The Act provides Federal, State and local law-enforcement agencies with the needed additional tools to address violent crimes against places of worship, strengthens the penalties for these crimes, and authorizes Federal assistance for rebuilding efforts. Section 4 of the Act, entitled ''Loan Guarantee Recovery Fund,'' authorizes the Secretary of HUD to guarantee loans made by financial institutions to assist certain nonprofit organizations (organizations described in section 501(c)(3) of the Internal Revenue Code of 1986) that have been damaged as a result of acts of arson or terrorism.

On September 6, 1996 (61 FR 47404), HUD published a final rule implementing section 4 of the Act by establishing a new 24 CFR part 573. Part 573 describes the procedures, terms, and conditions by which HUD will guarantee loans to assist eligible nonprofit organizations. Under § 573.3, eligible borrowers may use guaranteed loan funds for a wide range of activities. Paragraph (i) of § 573.3 permits the use of guaranteed loan funds to refinance existing indebtedness secured by a property to be constructed, rehabilitated, or reconstructed.

Unfortunately, § 573.3(i) inadvertently omitted to include the refinancing of existing indebtedness secured by a property for which construction, rehabilitation, or reconstruction has already begun. As evidenced by the preamble to the September 6, 1996 final rule, HUD intended to include such refinancings in the list of eligible activities. For example, the summary of eligible activities set forth in the preamble provided that guaranteed loan funds may be used for the ''refinancing of existing indebtedness'' (61 FR 47404). The summary did not limit such refinancings to indebtedness secured by properties where rebuilding was a future event.

Further, in justifying the need for final rulemaking without prior public comment, HUD noted that the Department of Justice had identified more than 40 eligible organizations whose properties had been damaged or destroyed by acts of arson or terrorism and that those organizations were in immediate need of loan guarantee assistance (61 FR 47404). It was known to HUD that some of these organizations had already rebuilt their damaged properties with loans carrying interest rates that might have been lower with HUD loan guarantee assistance.

List of Subjects in 24 CFR Part 573

Loan programs—housing and community development, Nonprofit organizations, Reporting and recordkeeping requirements.

Accordingly, in title 24 of the Code of Federal Regulations, part 573 is amended as follows:

1. The authority citation for part 573 continues to read as follows:

Authority: Pub. L. 104–155, 110 Stat. 1392, 18 U.S.C. 241 note; 42 U.S.C. 3535(d).

2. In § 573.3, paragraph (i) is revised to read, as follows:

§ 573.3 Eligible activities.

* * * * *

(i) Loans for refinancing existing indebtedness secured by a property which has been or will be acquired, constructed, rehabilitated or reconstructed, if such financing is determined to be appropriate to achieve the objectives of the Act and this part.

* * * * *

Dated: May 1, 1997.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 97–11729 Filed 5–5–97; 8:45 am]

BILLING CODE 4210–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 192–0037a; FRL–5816–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action granting limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP). The revisions concern two rules from the South Coast Air Quality Management District (SCAQMD). This final action will incorporate these rules into the federally approved SIP. The intended effect of finalizing this action is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules control VOC emissions from active and inactive landfills. Thus, EPA is finalizing a simultaneous limited approval and limited disapproval of the rules under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because the rules, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions and plan requirements for nonattainment areas.

DATES: This action is effective on July 7, 1997 unless adverse or critical comments are received by June 5, 1997. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rules and EPA's evaluation report for 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

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bowlin, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being incorporated into the California SIP are SCAQMD Rule 1150.1, Control of Gaseous Emissions from Active Landfills, and SCAQMD Rule 1150.2, Control of Gaseous Emissions from Inactive Landfills. The rules were submitted by the California Air Resources Board (CARB) to EPA on October 16, 1985 and February 10, 1986, respectively.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in l977 (1977 Act or pre-amended Act), that included the Los Angeles-South Coast Air Basin Area. 43 FR 8964, 40 CFR 81.305. The 1977 Act required that nonattainment areas adopt, at a minimum, reasonably available control technology (RACT) for all significant sources of emissions.

The State of California submitted many RACT rules for incorporation into its SIP on October 16, 1985 and February 10, 1986, including the rules being acted on in this document. This document addresses EPA's direct-final action for SCAQMD Rule 1150.1, Control of Gaseous Emissions from Active Landfills, and SCAQMD Rule 1150.2, Control of Gaseous Emissions from Inactive Landfills. SCAQMD adopted Rule 1150.1 on April 5, 1985 and Rule 1150.2 on October 18, 1985. These submitted rules are being finalized for limited approval and limited disapproval into the SIP.

Rule 1150.1 and Rule 1150.2 control the emissions of VOCs from active and inactive landfills, respectively. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of SCAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. The following is EPA's evaluation and final action for these rules.

EPA Evaluation and Action

In determining the approvability of a VOC 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 various EPA policy guidance documents.[1] Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. For source categories that do not have an applicable CTG (such as landfills), state and local agencies may determine what controls are required by reviewing the operation of facilities subject to the regulation and evaluating regulations for similar sources in other areas.

Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, the EPA policy guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SCAQMD's Rule 1150.1, Control of Gaseous Emissions from Active Landfills, and Rule 1150.2, Control of Gaseous Emissions from Inactive Landfills are new rules for inclusion in the SIP. The submitted rules contain the following requirements to control VOC emissions at active and inactive landfills:

- Installation of landfill gas control systems
- Monitoring of off-site gas migration
- Landfill surface monitoring
- Periodic sampling of periphery subsurface gas and ambient air
- Periodic sampling of collected landfill gas
- Disposal of collected landfill gas
- Periodic evaluation of the efficiency of the gas disposal system

Although SCAQMD Rules 1150.1 and 1150.2 will strengthen the SIP, the rules contain the following deficiencies:

- Numerous Director's discretion provisions
- No specified criteria for granting exemptions
- No specified control device efficiency
- No test methods or monitoring protocol
- Inadequate recordkeeping provisions

A detailed discussion of rule deficiencies can be found in the Technical Support Document for Rules 1150.1 and 1150.2 (3/97), which is available from the U.S. EPA's Region IX office. Because of these deficiencies, the rules are not approvable because the deficiencies are not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3) and Part D. Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is finalizing a limited approval of SCAQMD's submitted Rules 1150.1 and 1150.2 under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also finalizing a limited disapproval of these rules because they contain deficiencies and, as such, the rules do not fully meet the requirements of Part D of the Act. 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 this final limited disapproval. Moreover, this final limited disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rules covered by this direct final rulemaking have been adopted by the SCAQMD and are currently in effect in the District. EPA's final limited disapproval action will not prevent the District or EPA from enforcing these rules.

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

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing a limited approval and limited disapproval of the SIP revision should adverse or critical comments be filed. This action will be effective July 7, 1997, unless, by June 5, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a

[1] 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); and the existing control technique guidelines (CTGs).

proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective July 7, 1997.

Regulatory Process

Regulatory Flexibility

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 population of less than 50,000.

Limited approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. Under the CAA, EPA may not base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

EPA's limited disapproval of the State request under sections 110 and 301 and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state enforceability. Moreover, EPA's limited disapproval of the submittal does not impose any new Federal requirements. Therefore, EPA certifies that this limited disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new Federal requirements.

Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 7, 1997. 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)).

Unfunded Mandates

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

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. This rule may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being incorporated into the SIP by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Executive Order 12866

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

List of Subjects in 40 CFR Part 52

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

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

Dated: April 13, 1997.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(164)(i)(E) and (c)(168)(i)(H)(2) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(164) * * *

(i) * * *

(E) South Coast Air Quality Management District.

(*1*) Rule 1150.1, adopted on April 5, 1985.

* * * * *

(168) * * *

(i) * * *

(H) * * *

(*2*) Rule 1150.2, adopted on October 18, 1985.

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[FR Doc. 97–11911 Filed 5–6–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 101

[ET Docket No. 97–99; FCC 97–95]

Reallocation of Digital Electronic Messaging Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.