Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(266)(i)(B)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(266) * * *

(i) * * *

(B) * * *

(*2*) Rule 4653, adopted on March 19, 1998.

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[FR Doc. 00–23376 Filed 9–12–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI91–01–7322; FRL–6845–7]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: We are approving a site-specific revision to the Wisconsin sulfur dioxide (SO_2) State Implementation Plan (SIP) for Murphy Oil located in Superior, Wisconsin. The Wisconsin Department of Natural Resources (WDNR) submitted this SIP revision on February 26, 1999 in response to a request for an alternate SO_2 emission limitation by Murphy Oil. This final approval is based on the proposal published on August 16, 1999 at 64 FR 44451. As stated in the proposal, there will not be a second comment period on this action. The rationale for the approval and other information are provided in this notice.

EFFECTIVE DATE: This action is effective on October 13, 2000.

ADDRESSES: Copies of the SIP revision, public comments, and other materials relating to this action are available for inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please contact Christos Panos at (312) 353–8328, before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch, Air and Radiation Division (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: This supplementary information section is organized as follows:

A. What action is EPA taking today?
B. Why was this SIP revision submitted?
C. What is the background for this rulemaking?
D. Why can EPA approve this request?
E. What comments were submitted to EPA?

A. What Action Is EPA Taking Today?

We are approving WDNR's February 26, 1999 request for a site-specific revision to the Wisconsin SO_2 SIP. Specifically, we are approving: (A) the SO_2 emission limits contained in Wisconsin Air Pollution Control Operation Permit No. 95-SDD–120-OP, issued by the WDNR to Murphy Oil, USA on February 17, 1999; and (B) a modeled attainment demonstration assessing the impact of the alternate SO_2 limits for Murphy Oil, located in Superior (Douglas County), Wisconsin. Today's approval is based on the proposal published on August 16, 1999 at 64 FR 44451. As stated in the proposal, there will not be a second comment period on this action.

B. Why Was This SIP Revision Submitted?

Murphy Oil owns and operates a petroleum refinery in Superior, Wisconsin. The categorical statewide emission limit that we had approved on May 21, 1993 for any process heater firing residual fuel oil at petroleum refineries is 0.8 pounds of SO_2 per million British Thermal Units (lbs/MMBTU). Residual fuel oil is defined as an industrial fuel oil of grade No. 4, 5 or 6, as determined by the American Society for Testing and Materials. Also included in our May 21, 1993 final approval of Wisconsin's statewide SO_2 rules was NR 417.07(5), which established the state's procedures for sources to obtain alternate emission limitations. However, in both our January 2, 1992 proposed rulemaking and our May 21, 1993 final action, we noted that Wisconsin had to submit all relaxed state limits for approval as site-specific SIP revisions pursuant to section 110 of the Clean Air Act (CAA). We also stated that any previous SIP limitations would remain in effect and enforceable until we approved the proposed relaxed limitations into the SO_2 SIP.

Both our alternative emission limit requirements and WDNR's NR 417.05(5) require, among other things, that before an alternate emission limit can be approved, it must be demonstrated that the proposed alternate limit will not delay attainment or prevent maintenance of the applicable National Ambient Air Quality Standards (NAAQS). Additionally, the federal requirement limits the demonstration to no more than 75 percent of the NAAQS. Murphy Oil has requested an alternate emission limit of 3.0 lbs/MMBTU for any combustion unit when combusting #6 fuel oil. The WDNR air quality modeling evaluates this alternate limit in comparison to the SO_2 NAAQS. Additional information is available in our June 7, 1999 Technical Support Document (TSD).

C. What Is the Background for This Rulemaking?

On April 26, 1984 we notified the Governor of Wisconsin that the Wisconsin SO_2 SIP was inadequate to ensure the protection of the primary and secondary SO_2 NAAQS. The state responded to the notice of SIP deficiency with a statewide SO_2 emission limitations rule (NR 417.07). On January 2, 1992 at 57 FR 25, we proposed to approve the majority of Wisconsin's statewide SO_2 rules. A final approval of the majority of NR 417.07 was published on May 21, 1993 at 58 FR 29538. (We took no action on NR 417.07(2)(e) and NR 417.07(2)(f).)

As allowed under NR 417.07(5), Murphy Oil initially submitted a request for an alternate SO_2 emission limit in 1985 and proposed the first alternate SO_2 emission limitations in 1986. The WDNR concluded in an August 1988 memorandum that Murphy Oil's request for an alternate SO_2 emission limit was approvable. However, the state did not proceed at that time to propose an operating permit incorporating the alternate emission limit or to request public input on the proposed alternate emission limit, as required by the state rule.

On February 26, 1999 the state submitted a site-specific SIP revision for Murphy Oil and requested that we approve the alternate SO_2 emission limits for Murphy Oil into the Wisconsin SO_2 SIP. We concluded in our June 7, 1999 TSD that the modeled attainment demonstration using the alternate SO_2 limits was fully approvable. Given this, and because the source had followed the procedures of Wisconsin State Rule NR 417.07(5) for obtaining alternate emission limits, which we had approved on May 21, 1993, we proceeded to approve the SIP submittal as a Direct Final **Federal Register** document.

EPA published a direct final action approving the alternate SO_2 emission limits for Murphy Oil on August 16,

1999 at 64 FR 44415, which stated that if we received adverse comments by September 15, 1999, we would publish a timely notice of withdrawal in the **Federal Register**. Because we received adverse comments, we withdrew the direct final approval of the site-specific revision to the Wisconsin SO_2 SIP for Murphy Oil on September 29, 1999 at 64 FR 52438.

D. Why Can EPA Approve This Request?

We are approving the current SIP submittal because the source has followed the procedures of Wisconsin State Rule NR 417.07(5) for obtaining alternate emission limits, which we approved on May 21, 1993 at 58 FR 29538. This SIP revision was submitted by WDNR in response to a January 1, 1985 request for an alternate SO_2 emission limitation by Murphy Oil. Although all the comments submitted in response to our August 16, 1999 Direct Final **Federal Register** notice (64 FR 44415) requested that we disapprove the SIP revision, the commenters submitted no new information that would warrant a disapproval under the requirements of the CAA. As detailed in the June 7, 1999 TSD, the modeled attainment demonstration using the alternate SO_2 limit is fully approvable since it is consistent with EPA's nationally applicable modeling procedures. Further, the source has followed the procedures of Wisconsin State Rule NR 417.07(5) for obtaining alternate emission limits, as we approved on May 21, 1993.

E. What Comments Were Submitted to EPA?

We received 12 timely comment letters opposing our approval of the site-specific SIP revision for Murphy Oil. (We also received three letters postmarked after the September 15, 1999 close of the comment period). Because of the similarity of the comments received, rather than responding to the letters individually, the comments were summarized and categorized under the issues raised. We evaluated all the comments with respect to our proposed approval and prepared a ''Response to Comments'' document dated April 20, 2000 which summarizes the comments received and includes our evaluation and detailed response.

The summarized comments and their responses are divided into the following six points that commenters raised as to why we should deny the state's request to approve alternate SO_2 emission limits for Murphy Oil into the SIP: (1) Health effects; (2) Existing Clean Air Act violations; (3) Public denied opportunity for meaningful comment; (4) Cost calculations should not be considered; (5) Data and modeling appear inadequate; and, (6) Approved premature due to legislation.

1. Health Effects

Comment: Several commenters expressed concerns about health hazards associated with SO_2 emissions and complained about strong odors coming from Murphy Oil's facility.

Response: The EPA has established ''primary'' NAAQS to protect public health, and ''secondary'' NAAQS to protect environmental and property damage for each of six ''criteria pollutants'' as indicators of air quality: Ozone, carbon monoxide, nitrogen dioxide, SO_2, particulate matter and lead. The SIP revision for Murphy Oil demonstrates protection of human health and the environment through modeling, which shows that the emissions from Murphy Oil will not lead to any exceedances of the SO_2 NAAQS in the area. The CAA would not allow Murphy Oil, or any other facility, to emit any pollutant at a level which could cause an exceedance of the NAAQS.

Comment: SO_2 is the principal precursor to acid rain.

Response: To address the problem of acid rain, more accurately known as acid deposition, Congress established the National Acid Precipitation Assessment Program in 1980 to study the causes and impacts of acid deposition. This research revealed acid deposition's broad environmental and health effects and also documented that the pollution causing acid deposition can travel hundreds of miles, crossing state and national boundaries. The research also identified electric power generation as responsible for two-thirds of SO_2 emissions and one-third of NO_X emissions. As a result, Congress created the Acid Rain Program under Title IV (Acid Deposition Control) of the 1990 CAA Amendments. Areas that will benefit from emission reductions of the Acid Rain Program are: surface water, visibility, forests, human health, and materials and structures. The state's SIP revision, however, is not expected to address the Title IV requirements. EPA and the state are addressing the acid rain requirements in separate actions.

Comment: High-sulfur fuel is known to contain mercury.

Response: Title III of the CAA offers a comprehensive plan for achieving significant reductions in emissions of Hazardous Air Pollutants (HAPs) from major sources. Mercury and mercury compounds are HAPs under the CAA. The EPA established National Emission Standards for Hazardous Air Pollutants (NESHAPs) for mercury emissions based on risk under the pre-1990 CAA. Under the CAA Amendments of 1990 EPA regulates HAP emissions by source categories using maximum achievable control technology (MACT) standards for each ''major source'' in any listed source category. Major sources are defined as those sources that release 10 tons per year of any HAP, or 25 tons per year in total HAP emissions. Murphy Oil is not considered a major source of mercury emissions. EPA did not review the Murphy Oil SIP revision for compliance with Title III requirements, because separate programs implemented under Title III will address the mercury issue.

2. Existing Clean Air Act Violations

Comment: Although Murphy Oil is in violation of CAA requirements, EPA proposes to approve a dramatic relaxation of SO_2 emission limits. Approval must be denied until resolution of any and all enforcement actions proposed by EPA and WDNR.

Response: The state's procedures for sources to obtain alternate emission limitations are identified in Wisconsin's statewide SO_2 rules. When we approved these rules, we noted that all relaxed state limits still needed to be submitted to us as site-specific SIP revisions pursuant to section 110 of the CAA. We also stated that all previous SIP limits would remain enforceable until the relaxed limits would be approved into the SIP. The steps taken to grant approval of the alternate SO_2 emission limits are in full compliance with the procedures we approved into the state SIP and are entirely separable from any enforcement action currently being taken against Murphy Oil. Again, as previously stated, the new limits for Murphy Oil are in compliance with CAA requirements and will not cause a violation of the standards set to protect public health.

Comment: Current SIP provisions prohibit granting Murphy Oil a permit at the proposed alternate limits unless the facility is in compliance with all other CAA requirements. Because the Sulfur Recovery Unit is in violation of NSPS and PSD requirements, the alternate limits are simply unavailable at this time.

Response: The compliance requirements for sources seeking Title V permits are identified in 40 CFR 70.6(c). This SIP revision, however, is an action separate from the regulating entity's determination of a source's compliance status for the purpose of issuing a Title V permit. The permit issued by the state for this SIP revision is not a Title V

operating permit. Using a state operating permit as the vehicle to revise SIP limits is fairly common and is allowable under current SIP provisions.

3. Public Denied Opportunity for Meaningful Comment

Comment: The public was not given the opportunity to provide meaningful comments because critical decisions were made long before a public notice and comment period was held. The relaxed limits resulted from agreements between Murphy Oil and WDNR long before the October 1998 public hearing and the public was not a party to these negotiations. The process that was followed in this case was contrary to the CAA's requirement that the public be involved in the SIP approval and revision process.

Response: We reviewed the SIP revision request upon its February 26, 1999 submittal and on April 20, 1999 determined it to be complete based on the completeness requirements contained in Title 40 of the Code of Federal Regulations (CFR), part 51, appendix V. Regarding public comment and notice, appendix V states that all SIP submittals must show: (a) evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice; (b) certification that public hearings(s) were held in accordance with the information provided in the public notice and the state's laws and constitution, if applicable; and (c), compilation of public comments and the state's response thereto.

The state published a notice on September 18, 1998 stating that a public hearing to receive comments on the air pollution control operating permit for Murphy Oil, which included a request for alternate SO_2 emission limits, was to be held Wednesday, October 21, 1998, in Superior, WI. The WDNR stated in the hearing notice that they had made a preliminary determination that Murphy Oil's request for alternate SO_2 emission limits met the criteria for approval set forth in the Wisconsin Administrative Code. The WDNR further stated that this preliminary determination did not constitute approval of the permit and that they were soliciting written comments from the public to be considered prior to making a final decision regarding this proposal.

The state also submitted as technical support for the Murphy Oil SIP revision (1) a certification, dated February 18, 1999, that a public hearing was held on October 21, 1998 in Superior, Wisconsin and that written comments were received until October 21, 1998; and (2) a February 4, 1999 compilation of public comments and the state's response, entitled ''Summary of Comments and Responses for Permit #95–SDD–120–OP'', from Steve Dunn, WDNR, to Lloyd Egan, WDNR.

4. Cost Calculations Should Not Be Considered

Comment: The cost analysis submitted by Murphy Oil is flawed because it fails to realistically calculate Murphy Oil's ability to comply with the current emission limits. Further, WDNR's policy is arbitrary and unwise. Nowhere in the SIP revision process did WDNR question whether Murphy Oil could afford to change its operations to come into compliance with the State SO_2 limit.

Response: In order to approve an alternate emission limit, NR 417.07(5)(e) requires that a source demonstrate that there is a ''substantial'' difference between the costs required for meeting the categorical emission limits and the cost required for the source's compliance with the alternate emission limits. Murphy Oil has met this requirement of NR 417.07(5), which we had previously approved in the SIP, as outlined in the state's submittal. Further, NR 417.07(5) does not require that a request for an alternate emission limit show that a source can or cannot afford to come into compliance with the categorical emission limit.

Comment: Wisconsin's acceptance of the cost of fuel switching, the basis on which the refinery has maintained its need for the use of high-sulfur fuel, has no foundation in publicly reviewed policy. During 1998, an operating period in which the refinery claimed prohibitive high costs for fuel switching, the company increased its use of high-sulfur crude by 25 percent for reasons of financial gain and market position.

Response: As mentioned above, cost is a key component of NR 417.07(5) and therefore must be considered when evaluating the source's request for the alternate emission limits. We have reviewed the analysis submitted by the state and have determined that the costs of operating at the statewide limits are prohibitive. Murphy Oil has requested an alternate emission limit that meets the applicable federal and state requirements and we have an obligation to approve requests that meet these requirements.

5. Data and Modeling Appear Inadequate

Comment: There is no reason to believe that EPA could not have used real, current data instead of only modeling. Also, data gathered from two inspections of the facility in June of 1998 do not appear to have entered into either WDNR's modeling or EPA's decision process. These federal inspection data should, at a minimum, be studied and compared with Wisconsin modeling on which the modification was based.

Response: The Superior, Douglas County area is currently in attainment of the SO_2 NAAQS. The WDNR last monitored for SO_2 in the area in the early 1990's and measured no exceedances of the SO_2 NAAQS at that monitor. The WDNR has not proposed to establish an SO_2 monitoring station in the area because it does not believe it is necessary at this time.

Further, EPA has established guidance for conducting air quality modeling. The guidance, referred to as ''The Guideline on Air Quality Models,'' is codified in 40 CFR part 51, appendix W. It provides a common basis for estimating the air quality concentrations used in assessing control strategies and developing emission limits. It is used primarily for modeling conducted on criteria pollutants, where predicted concentrations are compared with the appropriate NAAQS. The data gathered during the two inspections in 1998 focused on emissions from only one SO_2 emission source at the facility, whereas the modeling analysis is more comprehensive and accounts for the total emissions from all the SO_2 sources at Murphy Oil. The WDNR modeling analysis for Murphy Oil followed the recommended approaches as outlined in the guidance for establishing emission limits.

Comment: EPA should require further proof that the modeling as submitted by Murphy Oil is accurate. In this case, EPA proposes to accept modeling that is based on old and possibly inaccurate data. Further, it is unclear where and when background measurements were taken.

Response: WDNR completed an air quality review demonstrating modeled attainment of the SO_2 NAAQS using the alternate emission limit for Murphy Oil on September 3, 1998. The model used in this analysis was the Industrial Source Complex Short Term 3 (ISCST3) model. The ''Guideline on Air Quality Models'' recommends ISCST3 for use in assessing pollutant concentrations from sources with multiple emission points. This is a nationally approved model and is used routinely to set limits adequate to protect public health. The five years (1982–1986) of meteorological data used in the Murphy Oil analysis was collected from the National Weather Service office located in Duluth,

Minnesota, and at the nearest upper air station, located in St. Cloud, Minnesota.

In addition to emissions from Murphy Oil, WDNR also included in the modeling emissions from three nearby sources, the University of Wisconsin-Superior, CLM, and Superior Fiber. The analysis also adds a background value to the modeled concentrations to represent the contribution of SO_2 emissions from nearby sources that were not included in the ISCST3 runs. The background concentrations came from a regional SO_2 monitor located at 2001 E. 11th Street in Superior, Wisconsin. The total concentration (*i.e.,* Murphy Oil modeled concentration plus nearby source modeled concentration plus background concentration) represents a value that can be compared to the SO_2 NAAQS.

Modeling results were given for two separate operating options incorporating the proposed alternative limit, one with lower SO_2 emission limits and another with higher SO_2 emission limits. The modeling results for both options, combined with background concentrations, show that the NAAQS for SO_2 will be attained at the 75 percent level required by the SIP.

Comment: The test of comparing the total quantity of SO_2 emitted by the facility with 75 percent of the NAAQS fails to maintain the exceptionally clean air that is otherwise ambient in the region. Several commenters felt that they are being penalized for living in a cleaner area.

Response: Both EPA's alternative emission limit requirements and WDNR's NR 417.05(5) require, among other things, that before an alternate emission limit can be approved, there must be a demonstration that the proposed alternate limit will not delay attainment or prevent maintenance of the applicable NAAQS. Additionally, the federal requirement limits the demonstration to no more than 75 percent of the NAAQS. The NAAQS for SO_2 consist of a 3-hour level of 1300 micrograms per cubic meter ($\mu g/m^3$), a 24-hour level of 365 $\mu g/m^3$ and an annual arithmetic mean of 80 $\mu g/m^3$. As mentioned above, the state submitted modeling results incorporating the proposed alternative limit for two separate operating options. Modeling results from the option with the higher SO_2 emission limits, combined with background concentrations, show a 3-hour concentration of 642.0 $\mu g/m^3$ (49.4 percent of NAAQS), a 24-hour concentration of 211.4 $\mu g/m^3$ (57.9 percent of NAAQS) and an annual concentration of 24.1 $\mu g/m^3$ (30.1 percent of NAAQS). Therefore, the modeling results for both options show that the NAAQS for SO_2 will be maintained at well below the required 75 percent level ensuring clean air in the area.

6. Approval Is Premature

Comment: The proposed revision is currently being challenged at the state level. Action by EPA would be premature before the state proceedings are final.

Response: After following proper procedures, the WDNR submitted a site-specific SIP revision requesting that we approve alternate SO_2 emission limits for Murphy Oil into the Wisconsin SO_2 SIP. The CAA then requires EPA to act on that submittal by approving or disapproving the state's request based on its own merits within a specific time frame. EPA is merely following the requirements of the CAA. Actions proposed at the state level proceed independently of any EPA action.

Comment: EPA stated in its proposed approval that it views this as a noncontroversial revision and anticipates no adverse comment. This is an unfortunate demonstration about how out-of-touch EPA appears to be with the community that will be most affected by this decision.

Response: We viewed the approval as a noncontroversial revision and anticipated no adverse comment for two reasons. First, the modeled attainment demonstration using the alternate SO_2 limits is fully approvable and shows attainment and maintenance of the SO_2 NAAQS. Second, the source followed the procedures of Wisconsin State Rule NR 417.07(5) for obtaining alternate emission limits, which we approved into the SIP on May 21, 1993, at 58 FR 29538.

EPA Action

In this rulemaking action, EPA approves the SO_2 emission limits in Wisconsin Air Pollution Control Operation Permit No. 95–SDD–120–OP, issued by the WDNR to Murphy Oil USA on February 17, 1999, and the modeled attainment demonstration using the alternate SO_2 limits for Murphy Oil in Superior (Douglas County), Wisconsin. This final approval is based on the proposal published on August 16, 1999 at 64 FR 44451. As stated in the parallel proposal, we will not institute a second comment period on this action.

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

Administrative Requirements

A. Executive Order 12866

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

B. 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.

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

C. Executive Order 13084

Under Executive Order 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, 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 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 Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This 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, 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 CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

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 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 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 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 CAA, preparation of flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA 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).

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to 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 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. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

H. 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 action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 2000. 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

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

Dated: July 20, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

Title 40 of the Code of Federal Regulations, chapter I, part 52, 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.

2. Section 52.2570 is amended by adding paragraph (c)(99) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(99) On February 26, 1999, the State of Wisconsin submitted a site-specific revision to the sulfur dioxide (SO_2) SIP for Murphy Oil USA located in Superior (Douglas County), Wisconsin. This SIP revision was submitted in response to a January 1, 1985, request for an alternate SO_2 emission limitation by Murphy Oil, in accordance with the procedures of Wisconsin State Rule NR 417.07(5) for obtaining alternate emission limits, as was approved by EPA in paragraph (c)(63) of this section.

(i) Incorporation by reference.

(A) Air Pollution Control Operation Permit No. 95–SDD–120–OP, issued by the Wisconsin Department of Natural Resources (WDNR) to Murphy Oil USA on February 17, 1999.

(ii) Additional material.

(A) Analysis and Preliminary Determination for the Proposed Operation Permit for the Operation of Process Heaters and Processes Emitting Sulfur Dioxide for Murphy Oil, performed by the WDNR on September 18, 1998. This document contains a source description, analysis of the alternate emission limitation request, and an air quality review, which includes the results of an air quality modeling analysis demonstrating modeled attainment of the SO_2 NAAQS using the alternate emission limit for Murphy Oil.

* * * * *

[FR Doc. 00–23375 Filed 9–12–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 238–0246a; FRL–6851–8]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) and the Bay Area Air Quality Management District (BAAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from graphic arts printing and coating operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on November 13, 2000 without further notice, unless EPA receives adverse comments by October 13, 2000. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460

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

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

Bay Area Air Quality Managment District, 939 Ellis Street, San Francisco, CA 94109–7799.

FOR FURTHER INFORMATION CONTACT: Max Fantillo, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1183.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	1130	Graphic Arts	10/08/99	01/21/00
BAAQMD	8.20	Graphic Arts Printing and Coating Operations	03/03/99	03/28/00

On March 1, 2000 and April 12, 2000, these rule submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

There are previous versions of Rules 1130 and 8.20 in the SIP. We approved into the SIP a version of Rule 1130 on May 4, 1999 and Rule 8.20 on December 27, 1997. The SCAQMD adopted revisions to the SIP-approved version on October 8, 1999 and the BAAQMD adopted revisions to the SIP-approved version on March 3, 1999. CARB submitted these rule revisions to us on January 21, 2000 (Rule 1130) and on March 28, 2000 (Rule 8.20).