Approved: February 21, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

Approved: May 2, 2002.

John A. Van Alstyne,

Lieutenant General, USA, Deputy Assistant Secretary, (Military Personnel Policy) Department of Defense.

For the reasons set out above, 38 CFR part 21 (subpart H) is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart H—Educational Assistance Test Program

1. The authority citation for part 21, subpart H, continues to read as follows:

Authority: 10 U.S.C. ch. 107; 38 U.S.C. 501(a), 3695, 5101, 5113, 5303A; 42 U.S.C. 2000; sec. 901, Pub. L. 96–342, 94 Stat. 1111–1114, unless otherwise noted.

2. Section 21.5820 is amended by:

a. In paragraph (b)(1), removing ''2000–01'' and adding, in its place, ''2001–02''; and by removing ''$3,524'' and adding, in its place, ''$3,690'';

b. In paragraph (b)(2)(ii), removing ''2000–01'' and adding, in its place, ''2001–02'';

c. In paragraph (b)(2)(ii)(A), removing ''$391.56'' and adding, in its place, ''$410.00'', and by removing ''$195.78'' and adding, in its place, ''$205.00'';

d. In paragraph (b)(2)(ii)(B), removing ''$13.05'' and adding, in its place, ''$13.67'', and by removing ''$6.53'' and adding, in its place ''$6.83'';

e. In paragraph (b)(3)(ii) introductory text, removing ''2000–01'' and adding, in its place, ''2001–02'';

f. In paragraph (b)(3)(ii)(A), removing ''$391.56'' and adding, in its place, ''$410.00''; and by removing ''$195.78'' and adding, in its place, ''$205.00'';

g. In paragraph (b)(3)(ii)(B), removing ''$13.05'' and adding, in its place, ''$13.67'', and by removing ''$6.53'', and adding, in its place, ''$6.83''; and

h. Revising paragraphs (b)(2)(ii)(C) and (b)(3)(ii)(C).

The revisions read as follows:

§ 21.5820 Educational assistance.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(C) Adding the two results.

* * * * *

(3) * * *

(ii) * * *

(C) Adding the two results; and

* * * * *

§ 21.5822 [Amended]

3. Section 21.5822 is amended by:

a. In paragraph (b)(1)(i), removing ''$878'' and adding, in its place, ''$919''; and by removing ''2000–01'' and adding, in its place, ''2001–02'';

b. In paragraph (b)(1)(ii), removing ''$439'' and adding, in its place, ''$459.50''; and by removing ''2000–01'' and adding, in its place, ''2001–02'';

c. In paragraph (b)(2)(i), removing ''2000–01'' and adding, in its place, ''2001–02''; and by removing ''$878'' and adding, in its place, ''$919''; and

d. In paragraph (b)(2)(ii), removing ''2000–01'' and adding, in its place, ''2001–02''; and by removing ''$439'' and adding, in its place, ''$459.50''.

[FR Doc. 02–11989 Filed 5–13–02; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 260–0339a; FRL–7174–5]

Revisions to the California State Implementation Plan, Tehama 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 Tehama County Air Pollution Control District (TCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern Oxides of Nitrogen (NO_X) emissions from industrial, institutional, and commercial boilers, steam generators, process heaters, and stationary gas turbines. 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 July 15, 2002, without further notice, unless EPA receives adverse comments by June 13, 2002. If we receive adverse comments, 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, 1001 ''I'' Street, Sacramento, CA 95814.

Tehama County Air pollution Control District, P.O. Box 38 (1750 Walnut St.), Red Bluff, CA 96008–0038.

FOR FURTHER INFORMATION CONTACT: Charnjit Bhullar, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 972–3960.

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

Table of Contents

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 agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule Title	Adopted	Submitted
TCAPCD	4:31	Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters.	01/29/02	02/08/02

TABLE 1.—SUBMITTED RULES—Continued

Local agency	Rule #	Rule Title	Adopted	Submitted
TCAPCD	4:37	Stationary Gas Turbines	01/29/02	02/08/02

On March 8, 2002, 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?

On September 19, 2000 (65 FR 56486), EPA finalized limited approval and limited disapproval of a previous version of these rules. TCAPCD adopted the revisions of these rules on January 29, 2002, and CARB submitted them to us on February 8, 2002. We are acting on the revised version of these rules.

C. What Is the Purpose of the Submitted Rules?

Rule 4:31 establishes nitrogen oxide (NO_X) and carbon monoxide (CO) emission limits for industrial, institutional, and commercial boilers, steam generators, and process heaters. Rule 4:37 establishes nitrogen oxide (NO_X) emission limits for the operation of gas and liquid fueled turbines of greater than 0.3 megawatt (MW) output.

On September 19, 2000, the EPA published a limited approval and limited disapproval of a previous version of rules 4:31 and 4:37, because the rules improved the State Implementation Plan (SIP) overall but some rules provisions conflicted with section 110 and part D of the Clean Air Act. Those provisions included the following:

Rule 4:31 and 4:37 contained unapprovable Air Pollution Control Officer (APCO) discretion which allowed exemption of units from reasonably available control technology (RACT) due to lack of technical or economic feasibility.

Rule 4:31 contained unapprovable APCO discretion to demonstrate compliance with RACT.

The January 29, 2002 revision to rules 4:31 and 4:37 correct the above deficiencies. The TSDs have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating These Rules?

Generally, SIP rules must be enforceable (*see* section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (*See* Sections 182(a)(2)(A) and 182(f)), and must not relax existing requirements (*See* Sections 110(l) and 193). The TCAPCD is an ozone attainment area, so RACT requirements do not apply to these rules.

Guidance and policy documents that we used to help evaluate the rules include the following:

1. *Issue Relating to VOC Regulation, Cut points, Deficiencies, and Deviations* (the ''Blue Book''), U.S. EPA, May 25, 1988.

2. *State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendment of 1990* (the ''NO_X Supplement to the General Preamble''), U.S. EPA, 57 FR 55620, Nov. 25, 1992.

3. *State Implementation Plans for National Primary and Secondary Ambient Air Quality Standards*, section 110 of the Clean Air Act (CAA), and Plan Requirements for Nonattainment Areas, Title I, Part D of the CAA.

4. *Requirement for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.

5. *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, California Air Resources Board/CAPCOA, July 18, 1991.*

6. *Cost-Effective Nitrogen Oxides (NO_X) Reasonably Available Control Technology (RACT), U.S. EPA Office of Air Quality Planning and Standards, March 16, 1994.*

7. *Nitrogen Oxides (NO_X) Reasonably Available Control Technology (RACT) for the Repowering of Utility Boilers, U.S. EPA Office of Air Quality Planning and Standards, March 9, 1994.*

8. *State Implementation Plan: Policy Regarding Excess Emission During Malfunctions, Startup, and Shutdown, U.S. EPA, Office of Air Quality Planning and Standards, September 20, 1999.*

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA Recommendations To Further Improve the Rules.

None.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by June 13, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on July 15, 2002. This will incorporate these rules into the federally enforceable SIP.

On September 19, 2000, EPA also finalized a limited approval and limited disapproval of TCAPCD rule 4:34, Stationary piston Engines, for reasons similar to our action on rules 4:31 and 4:37. TCAPCD adopted revisions to rule 4:34 on January 29, 2002. Unfortunately, these revisions relaxed, rather than improved on the previous version of the rule. On March 27, 2002, the state withdrew revisions to TCAPCD rule 4:34. However, because Tehama is in attainment with the ozone NAAQS, sanctions under CAA section 179 and federal implementation plan (FIP) requirements do not apply. We are clarifying, therefore, that the version of rule 4:34 approved into the SIP on September 19, 2000 remains federally enforceable, and there are no sanction or FIP implications if this is not revised.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of the rules and if that provision may be severed from the remainder of the ruled, EPA may adopt as final those provisions of the rules that are not the subject of an adverse comment.

III. Background Information

A. Why Were These Rules Submitted?

NO_X helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_X emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency NO_X rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that these rules will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because these rules approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, these rules do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

These rules also do not have tribal implications because they will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action 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. These rules also are not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because they are not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. These rules do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 these rules 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 these rules in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 July 15, 2002. Filing a petition for reconsideration by the Administrator of these final rules do not affect the finality of these rules 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 rules 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 5, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(295) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(295) New and amended regulations for the following APCD were submitted on February 8, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Tehama County Air Pollution Control District.

(*1*) Rules 4:31 and 4:37 adopted on January 29, 2002.

* * * * *

[FR Doc. 02–11823 Filed 5–13–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000622191–2104–02; I.D. 041700D]

RIN 0648–AO35

Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries; Measures to Reduce the Incidental Catch of Seabirds in the Hawaii Pelagic Longline Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; seabird mitigation measures.

SUMMARY: NMFS issues a final rule under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP) that requires owners and operators of all vessels registered for use under a Hawaii longline limited access permit and operating with longline gear north of 23° N. lat. to employ a line-setting machine with weighted branch lines or use basket-style longline gear, and to use thawed blue-dyed bait and strategic offal discards during setting and hauling of longlines. This final rule also requires that the owners and operators of these vessels follow certain seabird handling techniques and annually complete a protected species educational workshop conducted by NMFS. This final rule follows an emergency interim rule published on June 12, 2001, and is being implemented to permanently codify the terms and conditions contained in a biological opinion (BiOp) issued on November 28, 2000, by the U.S. Fish and Wildlife Service (USFWS) and intended to afford protection to the endangered short-tailed albatross. This final rule also implements management measures that were recommended by the Western Pacific Fishery Management Council (Council) and published in a proposed rule on July 5, 2000. These measures were designed to minimize interactions between seabirds and the Hawaii-based longline fishery.

DATES: This final rule is effective June 13, 2002, except for amendments to §§ 660.35(b)(4)(i), 660.35(b)(6), and 660.35(b)(8), which require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). When OMB approval is received, the effective date will be announced in the **Federal Register**.

ADDRESSES: Copies of a final environmental impact statement for the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FEIS) are available from Dr. Charles Karnella, Administrator, NMFS, Pacific Islands Area Office (PIAO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814. Copies of an environmental assessment (EA), regulatory impact review and final regulatory flexibility analysis (FRFA) prepared for this action may be obtained from Ms. Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, Suite 1400, 1164 Bishop Street, Honolulu, HI 96813. Send comments on the reporting burden estimate or any other aspect of the collection-of-information requirements in this rule to NMFS, PIAO and to OMB at the Office of Information and Regulatory Affairs, OMB, 725 17th St., NW, Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, PIAO, 808–973–2937.

SUPPLEMENTARY INFORMATION: As discussed in the proposed rule, published at 65 FR 41424, July 5, 2000, Hawaii-based pelagic longline vessels are known to interact in a sometimes fatal manner with black-footed (*Phoebastria nigripes*) and Laysan (*P. immutabilis*) albatrosses. These seabirds follow the longline vessels, dive on the baited longline hooks, and may become hooked and subsequently drown. Although no fishery interactions with the endangered short-tailed albatrosses (*P. albatrus*) have been recorded to date, following the publication of the proposed rule, the USFWS prepared a BiOp for the fishery under section 7 of the Endangered Species Act (ESA) for this species. That BiOp concluded that the Hawaii-based longline fishery was not likely to jeopardize the continued existence of the short-tailed albatross. However, it estimated that the fishery would take 15 short-tailed albatrosses during the 7–year period addressed in the consultation. (For the purposes of this BiOp, the USFWS considered a ''take'' to include not only injury or mortality to a short-tailed albatross caused by longline gear, but also any short-tailed albatross striking at baited hooks or mainline gear during longline setting or haulback.)

Based on this assessment, the USFWS BiOp requires NMFS to implement several measures applicable to the owners and operators of vessels registered for use under Hawaii limited access longline permits (Hawaii-based vessels). When making deep sets north of 23° N. lat., these vessels must employ a line-setting machine with at least 45 grams of weight attached within 1 meter of each hook. In addition, all Hawaii-based vessels operating north of 23° N. lat. must use thawed blue-dyed bait and strategic offal discards to distract birds during the setting and hauling of longline gear. Regardless of the area fished, all Hawaii-based vessel operators must follow certain handling techniques to ensure that any short-tailed albatross brought onboard alive is handled and released in a manner that maximizes the probability of its long-term survival (dead short-tailed albatrosses are to be frozen and their carcasses submitted to NMFS upon return to port). Finally, the USFWS BiOp requires that Hawaii-based vessel operators annually complete a protected species educational workshop conducted by NMFS. Although shallow ''swordfish-style'' setting is currently prohibited by an emergency rule implemented to protect sea turtles (see below), the USFWS BiOp requires that vessel operators making shallow sets north of 23° N. lat. begin setting the longline at least 1 hour after local sunset and complete the setting process by local sunrise, using only the minimum vessel lights necessary. This requirement is not included in this final rule because the prohibition on ''swordfish style'' shallow set fishing is being undertaken under separate rulemaking to make this measure permanent in compliance with a March 29, 2001, biological opinion issued by NMFS regarding sea turtles. On October 18, 2001, the USFWS amended the USFWS BiOp to allow basket-style longline gear to be set without a line-setting machine or weighted branch lines as data show that this gear has a rapid sink rate that results in few, if any, seabird interactions.

The USFWS BiOp's terms and conditions were implemented by NMFS on June 12, 2001, through an emergency interim rule, which also included sea turtle mitigation measures (FR 66 31561). Public comments were solicited at that time; however, none were received. On December 10, 2001, NMFS extended that emergency interim rule