identified in this notice, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this notice, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the District of Columbia and submitted formally to EPA for incorporation into the SIP.

III. Proposed Action

EPA is withdrawing the proposed conditional approval published in the **Federal Register** on February 25, 1999, and is, instead, proposing full approval of the District of Columbia's NO_X RACT regulation found in section 805 of Title 20 of the DCMR which was submitted as a SIP revision by the District of Columbia on January 13, 1994 and supplemented on August 28, 2000.

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. 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 this rule 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 this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule, which proposes approval of the District of Columbia's NO_X RACT regulation, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements.

Dated: September 15, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–24792 Filed 9–27–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 217–0261; FRL–6878–8]

Approving Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of two San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) permitting and New Source Review (NSR) rules for stationary sources. These rules were submitted as revisions to the California State Implementation Plan (SIP). EPA originally proposed full approval of these rules in the **Federal Register** (64 FR 51493) on September 23, 1999. However, based on comments EPA received on the proposed approval and further review of the rules, EPA has determined that the rules as submitted are not fully approvable. Therefore, EPA is now proposing a limited approval and limited disapproval of the rules and requesting comment on this proposal.

The intended effect of proposing limited approval and limited disapproval is to ensure that the District's permitting and NSR rules are consistent with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA is proposing a limited approval of the rules because the rules generally strengthen the SIP. EPA is concurrently proposing a limited disapproval of the rules because the rules contain deficiencies which do not fully meet the CAA requirements for non-attainment areas and must be corrected. If EPA finalizes this limited approval and limited disapproval, EPA's final action will incorporate the rules into the federally approved SIP. EPA evaluated these rules based on CAA guidelines for EPA action on SIP submittals and EPA's general rulemaking authority.

DATES: Comments must arrive by October 30, 2000.

ADDRESSES: Send comments to: Ed Pike, Permits Office [AIR–3], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can review and copy the submitted rules, the existing SIP rules, and EPA's Technical Support Document (TSD) at EPA's Region 9 office from 8:30 a.m. to 5 p.m., Monday to Friday. A reasonable fee may be charged for copying.

Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, 2020 L Street, Sacramento, CA 95814

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Avenue, Fresno, CA 93726

FOR FURTHER INFORMATION CONTACT: Please call Ed Pike at (415) 744–1211 or send email to pike.ed@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. EPA is Proposing Limited Approval and Limited Disapproval of District Rule 2020, Permit Exemptions, and Rule 2201, New Source Review

EPA today proposes a limited approval and limited disapproval of revisions to the California SIP for District Rules 2020 and 2201. Upon final action, the rules will replace existing New Source Review and Permit Exemption Rules in the following SIPs: Fresno County, a portion of Kern County,[1] Kings County, Madera County, Merced County, San Joaquin County, Stanislaus County, and Tulare County. Please see the Technical Support Document for a complete list of the Rules that will be replaced.

Rule 2020 was adopted by the San Joaquin Valley Unified Air Pollution Control District (for background information on the District, please see 64 FR 51493) on September 17, 1998, and submitted to EPA by the California Air Resources Board (CARB) on October 27, 1998. Rule 2201 was adopted by the District on August 20, 1998 and submitted to EPA by CARB on September 29, 1998. This proposed limited approval and limited disapproval does not include sections 5.9 and 6.0 of Rule 2201, which specify requirements for title V operating permits. The title V requirements in Rule 2201 (based on a prior version of Rule 2201) were given interim approval as part of the District's title V operating permits program in EPA's April 24, 1996 rulemaking on that program (see 60 FR 55517 and 61 FR 18083). The District has not submitted any substantive changes to the title V sections of Rule 2201 since that approval.

II. How Did EPA Arrive at the Proposed Action?

A. Previous Proposed Approval

On September 23, 1999 (64 FR 51493), EPA proposed to approve Rules 2020 and 2201 into the California SIP and provided a 30-day public comment period. EPA had evaluated these rules for consistency with the requirements of the CAA and EPA regulations, as well as EPA's interpretation of these requirements in EPA policy guidance documents. (*See* the September 23, 1999 proposed rule and the TSD for this action for a detailed discussion of the rules and EPA's evaluation, as well as the updated information below). EPA received and reviewed public comment on its proposed approval and has also conducted further review of the rule. Based on the public comment and our further rule review, we have identified portions of the rules that do not meet EPA requirements: (1) The enforceability of the offset equivalency tracking system contained in the proposed rule; (2) the applicability of the Lowest Achievable Emissions Rate (LAER) to modified sources; and (3) an exemption for agricultural sources. As a whole, District Rules 2020 and 2201 are an improvement to the permitting rules currently in the SIP (see page 3 of EPA's August 30, 1999 TSD) and strengthen the SIP. However, EPA has also determined that these rules do not fully meet the requirements of the Clean Air Act and EPA's regulations because they contain the three deficiencies listed above.

B. New Source Review Rule Offset Equivalency

In September 1999, EPA proposed to approve the rules based on the District's commitment to demonstrate that the rules would require offsets that are, in the aggregate, equivalent to federal offset requirements (See our September 23, 1999 proposed rulemaking in the **Federal Register** for more information). The proposal identified situations where the District's offset rule might not collect as many federally recognized offsets as required by EPA regulations. For instance, the District does not adjust offsets at the time of use, which means that some emission reductions used to generate the offsets would not be surplus to all Clean Air Act requirements. The September 1999 proposal also identified situations where the District's rule would require more offsets than federal requirements, such as the requirement for some non-major sources to obtain offsets. The District committed to demonstrate equivalency by calculating on an annual basis the quantity of offsets that would be required under federal non-attainment NSR regulations (i.e. the quantity of offsets that meet all Clean Air Act requirements) and the quantity of offsets required under the District program. (See the September 23, 1999 proposal and the TSD for more information on the District's proposed equivalency demonstration.)

EPA continues to believe that the District can adopt and EPA can approve into the SIP an offset system to show equivalency with federal offset requirements. However, a comment submitted by Adams, Broadwell and Cordoza on October 25, 1999 states that the District's commitment to EPA falls short of guaranteeing equivalent offsets.[2] EPA agrees with this comment, but believes that this deficiency in the equivalency system can be corrected by a mandatory remedy that is automatically effective if the annual demonstration results in a shortfall of offsets meeting all federal requirements. Although the District's Deputy Air Pollution Control Officer had committed to initiate rule amendments if the annual demonstration results in a shortfall,[3] Rule 2201 does not contain a specific requirement for the District to remedy any shortfall of offsets in the equivalency demonstration. Therefore, rather than finalize full approval of the rule, EPA is proposing this limited approval based on a finding that Rule 2201 is deficient because it does not include a specific and enforceable remedy for a shortfall in the annual equivalency demonstration. EPA believes that the rule must be revised to contain a mandatory and enforceable remedy to cure any annual shortfall and prevent future shortfalls.

The District has suggested adopting a rule amendment requiring that all new major sources, and certain modifications, use offsets that are surplus at the time of use, if the District does not demonstrate ''equivalency''. EPA believes that amending the rule to include this enforceable remedy would correct this rule deficiency, because we expect that the District would make up any short-fall in the equivalency demonstration within twelve months.

C. Lowest Achievable Emission Rate Applicability

After our September 1999 proposal, EPA discovered that the District rule does not under all circumstances require LAER for modifications to an emission unit(s). Specifically, the rule does not require LAER if the modification causes an increase in actual emissions but not an increase in

[1] See the Technical Support Document for more information on the Districts' jurisdiction.

[2] Please note that other comments were contained in this letter and will be addressed in EPA's final rulemaking.

[3] Please see August 24, 1999 agreement signed by Mark Boese, of the District and David Howekamp, Air Division Director of US EPA Region IX, in the TSD.

the emission unit's permitted emission rate. EPA's New Source Review regulations (40 CFR 51.165) require LAER for significant emission increases (for instance, 25 tons per year of volatile organic compounds or nitrogen oxides) and require that major sources calculate emissions changes based on the post-project allowable emissions minus the pre-project actual emissions. The District rule, however, requires LAER (the District's rule uses the term ''Best Available Control Technology,'' which is defined to be at least as strict as EPA LAER) for all modified units with an increase in permitted emissions of greater than two pounds per day (section 4 of District Rule 2201). EPA believes that the District rule would require LAER for most sources that trigger federal LAER requirements. Nevertheless, EPA finds that there is a deficiency in the rule as currently written because it could exempt from LAER some sources that would have actual emissions increases greater than the federal significance level, even if the increase in permitted emission rates did not exceed two pounds per day.

For example, EPA has reviewed emissions data for a glass furnace expansion that was a major modification based on a comparison of post-project allowable emissions and pre-project actual emissions, but which the source believed was not subject to LAER under the current District rule. This is because the source compared their pre-project potential to emit (the source used potential to emit because the permit did not contain source-specific emission limitations) with the permit limit for the expanded furnace, rather than comparing their pre-project actual emissions to their new allowable emission rate. In this situation, the new allowable emission level was significantly higher than the prior actual emissions, but not higher than the source's estimate of their prior potential to emit. This could allow a source to make a major modification (based on increases in actual emissions at one or more units), but avoid LAER if it does not increase its potential to emit. In addition, determining the ''permitted'' emission rate is problematic when no source-specific emission limit exists. Therefore, EPA is proposing that the District must amend Rule 2201 to ensure that sources install LAER if they are allowed to make a significant increase in their actual emission rate.

The District has suggested adopting an amendment to Rule 2201 that requires that certain modified sources apply LAER if they are included in the District's definition of a title I modification (Rule 2010). EPA believes that a rule amendment of this type would correct this rule deficiency.

D. Agricultural Exemption

The District exemption rule (section 4.1 of Rule 2020) contains an exemption for agricultural operations. The exemption generally applies to ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals.'' EPA did not originally identify this issue as a deficiency in our original **Federal Register** Notice. Upon further review, however, EPA recognized that this exemption could apply to major sources subject to the New Source Review requirements under the federal Clean Air Act. Therefore, EPA believes that the District must remove this exemption from the District program to receive full approval.

III. Overview of Limited Approval/Disapproval

Because of the three deficiencies identified in this rulemaking, Rules 2020 and 2201 are not approvable pursuant to section 182(a)(2)(A) of the CAA, and EPA cannot grant full approval of the District's permitting and NSR program under section 110(k)(3) and part D. 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 permitting and NSR rules (2020 and 2201) 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 proposing a limited approval of the District's submitted Rules 2020 and 2201 under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of District Rules 2020 and 2201 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 non-attainment, 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: withholding highway funding and increasing the offset requirements. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final limited disapproval triggers the federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rules covered by this proposed rulemaking have already been adopted by 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 request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, environmental, and economic factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed 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 this proposed rule 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 this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and

does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, New Source Review, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 15, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00–24941 Filed 9–27–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 97–80; FCC 00–341]

Commercial Availability of Navigation Devices

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document seeks comments regarding rules adopted to implement Section 629 of the Communications Act. Section 304 of the 1996 Telecommunications Act, which became law on February 5, 1996, added Section 629 to the Communications Act. Section 629 concerns the commercial availability of navigation devices. This document may result in information collection(s) subject to the Paperwork Reduction Act (PRA) of 1995.

DATES: Comments are due November 15, 2000; reply comments are due December 18, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Thomas Horan at (202) 418–7200 or via internet at thoran@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (''FNPRM''), FCC 00–341, adopted September 14, 2000; released September 18, 2000. The full text of the Commission's FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters, 445 12th Street, SW., Washington, DC 20554, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036, or may be reviewed via internet at http://www.fcc.gov/csb/.

I. Synopsis of the Further Notice of Proposed Rulemaking

A. Development of OpenCable Specifications.

1. In this Further Notice of Proposed Rulemaking (''*Notice*''), we seek comment on whether the specifications provided by CableLabs allow consumer electronics manufacturers to build a navigation device that provides consumers a viable alternative to the equipment provided by their service provider. In addition, we also seek comment on whether there are further steps the Commission should undertake to ensure compliance with section 629 and achieve the statutory objective of commercial availability of navigation devices.

B. Integrated Boxes

2. We seek comment on the extent of the effect operator provision of integrated equipment has had on achieving a competitive market for commercially available navigation devices. We seek comment on whether the 2005 date for the phase-out of integrated boxes remains appropriate. Alternatively, we seek comment on whether it would it be satisfactory to permit multichannel video programming distributors (MVPD) or retail distribution of integrated boxes after January 1, 2005 if integrated boxes are also commercially available or for other reasons necessary to further the objectives of Section 629. In addition, we seek comment on the considerations that factor into a decision regarding the date of the phase-out of integrated boxes. For example, would an earlier or later date create incentives for the development of a commercial market for navigation devices? We also seek comment on the economic impact an earlier or later date would have on manufacturers and on MVPDs. In this regard, we believe the following information would be beneficial to the Commission's analysis: (1) The number of integrated boxes that MVPDs have deployed to customers to date; (2) the number of integrated boxes MVPDs expect to be deployed in 2003; (3) the number of orders MVPDs and retailers have made for non-integrated equipment; and (4) the number of orders for integrated boxes MVPDs have placed since the release of Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices, 64 FR 29599 (June 2, 1999), and (5) the total cost differential (including manufacturing, marketing, research and development, and distribution costs), if any, between an integrated box and a host/POD combination.

C. Obstacles to Commercial Availability

3. We note that a retail market for cable modems is developing in certain regions of the country, while commenters assert that there are no host devices available at retail. We seek comment on this apparent disparity. We seek comment on any obstacles or barriers preventing or deterring the development of a retail market for navigation devices. We note that cable systems are in development that utilize technology outside that of traditional cable architecture. We seek comment on