(33) A revision to the Kansas SIP was submitted by the Kansas Department of Health and Environment on May 23, 1997, pertaining to fuel volatility.

(i) Incorporation by reference.

(A) K.A.R. 28–19–79, Fuel Volatility, effective May 2, 1997.

[FR Doc. 97–17601 Filed 7–3–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 105–0041a; FRL–5843–9]

Approval and Promulgation of Implementation Plan for Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to approve Yolo-Solano Air Quality Management District (District) Rule 3.1—General Permit Requirement, Rule 3.2—Exemptions, Rule 3.4—New Source Review, Rule 3.14—Emission Reduction Credits, and Rule 3.15—Priority Reserve. EPA is approving these rules for the purpose of meeting requirements of the Clean Air Act, as amended in 1990 (CAA or Act) with regard to new source review (NSR) in areas that have not attained the national ambient air quality standards (NAAQS). This approval action will incorporate these rules into the federally approved State Implementation Plan (SIP) for California. The rules were submitted by the State to satisfy certain Federal requirements for an approvable NSR SIP. Thus, EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas. EPA is taking this action without prior proposal because the Agency views this as a non-controversial amendment and anticipates no adverse comments.

DATES: This action is effective on September 5, 1997 unless adverse or critical comments are received by August 6, 1997. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Comments should be submitted to Steve Ringer (AIR–3), EPA, Region 9, 75 Hawthorne St, San Francisco, CA 94105–3901. Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours at the following address: Permits Office (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the submitted rules are also available for inspection at the following locations:

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

Yolo-Solano Air Quality Management District, 1947 Galileo Ct., Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Steve Ringer, (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. (415) 744–1260.

SUPPLEMENTARY INFORMATION: The air quality planning requirements for nonattainment NSR are set out in part D of title I of the Clean Air Act. EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment NSR SIP requirements [see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion. EPA has also proposed regulations to implement the changes under the 1990 Amendments in the NSR provisions in parts C and D of Title I of the Act. [See 61 FR 38249 (July 23, 1996)]. Upon final promulgation of those regulations, EPA will review those NSR SIP submittals on which it has already taken final action to determine whether additional SIP revisions are necessary.

I. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) and section 110(l) of the Act provide that each implementation plan or revision to an implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 172(c)(7) of the Act provides that plan provisions for nonattainment areas shall meet the applicable provisions of Section 110(a)(2).

Rule 3.1 was adopted by the District Board of Directors on February 23, 1994, and submitted to EPA as an amendment to the SIP on October 19, 1994. Rule 3.2 was adopted by the District on August 25, 1993, and submitted to EPA on March 29, 1994. Rule 3.4 was adopted by the District on December 11, 1996, and submitted to EPA on March 26, 1997. Rules 3.14 and 3.15 were adopted by the District on September 22, 1993, and submitted to EPA on March 29, 1994.

EPA deemed the submittals complete on December 1, 1994, June 3, 1994, May 14, 1997, and June 3, 1994, respectively. EPA made its determinations of completeness pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 appendix V.[1]

II. Summary of Rule Contents

The Yolo-Solano Air Quality Management District submitted to EPA for adoption into the applicable NSR SIP Rules 3.1, 3.2, 3.4, 3.14, and 3.15, which constitute the District's new source permitting rules. Rule 3.1 contains the District's general requirement that new and modifying sources must obtain an authority to construct (ATC) permit prior to construction. Rule 3.2 contains a list of exemptions from the ATC permit requirements. Rule 3.4 contains the District's NSR definitions, administrative requirements, and the standards which a stationary source must meet in order to obtain an ATC permit. Rule 3.14 creates an administrative mechanism for certifying emission reduction credits (ERCs), and Rule 3.15 establishes the District's Priority Reserve bank for ERCs.

Rules 3.1, 3.2, 3.4, 3.14, and 3.15 represent comprehensive revisions to the District's NSR permitting regulations. These rules subsume all elements of the District NSR rules that are currently in the SIP, and are thus intended to supersede District Rules 3.1, 3.2, 3.3, 3.4, 3.4.1, 3.4.2, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, and 3.13 which were approved into the SIP by EPA on various dates between March 31, 1972 and April 17, 1989.

The District is composed of Yolo County and part of Solano County, and is designated as a severe ozone nonattainment area. The District is designated attainment for PM10, NO2, SO2 and CO. For the detailed area designations that apply to the District, please refer to 40 CFR § 81.305. The CAA air quality planning requirements for nonattainment NSR are set out in part D of Title I of the Act, with

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

implementing regulations at 40 CFR §§ 51.160 through 51.165. EPA has determined that the District's submittal satisfies these requirements.

For a more detailed description of how the submitted Rules meet the Act's applicable requirements, please refer to EPA's technical support document (TSD) for this action.

III. Action

EPA has evaluated Rules 3.1, 3.2, 3.4, 3.14, and 3.15 and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, District Rules 3.1, 3.2, 3.4, 3.14, and 3.15 are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), and part D of Title I of the Act.

IV. Administrative Review

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, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is taking this action without prior proposal in part because the District has provided public workshops in the development of the submitted rules, and provided the opportunity for public comment prior to adoption of the submitted rules. At that time, no significant comments were received by the District. The Agency therefore views this as a non-controversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective September 5, 1997, unless, by August 6, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective September 5, 1997.

V. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this approval action 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 5, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, New source review, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: June 4, 1997.

Felicia Marcus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(196)(i)(D), (c)(202)(i)(F), (c)(245) and adding and reserving paragraph (c)(244) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(196) * * *

(i) * * *

(D) Yolo-Solano Air Quality Management District.

(*1*) Rule 3.2, adopted on August 25, 1993; and rules 3.14 and 3.15, adopted on September 22, 1993.

* * * * *

(202) * * *

(i) * * *

(F) Yolo-Solano Air Quality Management District.

(*1*) Rule 3.1, adopted on February 23, 1994.

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(244) [Reserved]

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(245) New and amended regulations for the following APCDs were submitted on March 26, 1997, by the Governor's designee.

(i) Incorporation by reference.

(A) Yolo-Solano Air Quality Management District.

(*1*) Rule 3.4, adopted on December 11, 1996.

* * * * *

[FR Doc. 97–17599 Filed 7–3–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96–149; FCC 97–222]

Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Second Order on Reconsideration (Order) released June 24, 1997 examines the proper interpretation of section 272(e)(4) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act). The Order concludes that the Commission's original interpretation—that section 272(e)(4) imposes requirements on Bell Operating Company (BOC) provision of interLATA services that the BOCs are otherwise authorized to provide—is the only one that resolves an apparent conflict with section 272(a) in a way that squares with the considered policy choice Congress made in imposing a separate affiliate requirement for BOC provision of in-region interLATA services.

EFFECTIVE DATE: August 6, 1997.

FOR FURTHER INFORMATION CONTACT: Lisa Choi, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order adopted June 20, 1997, and released June 24, 1997. The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., N.W., Room 239, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc97–222.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M St., N.W., Suite 140, Washington, D.C. 20037.

Regulatory Flexibility Certification

The changes adopted in this Order do not affect our certification in the *First Report and Order* (62 FR 2927 (January 21, 1997)).

Synopsis of Order on Reconsideration

I. Introduction and Summary

1. In the *Non-Accounting Safeguards First Report and Order*, released on December 24, 1996, the Commission implemented the non-accounting safeguards provisions of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (Communications Act). These provisions generally prescribe the manner in which the Bell Operating Companies (BOCs) may enter certain new markets, including the in-region interLATA services market. In this *Second Order on Reconsideration*, we examine in greater depth the proper interpretation of one of these provisions, section 272(e)(4).

2. The BOCs' interpretation—that section 272(e)(4) is an affirmative grant of authority allowing a BOC to provide directly (*i.e.*, not through a separate affiliate) in-region interLATA services on a wholesale basis—presents an apparent conflict with section 272(a), which, in relevant part, *prohibits* a BOC from doing precisely this. Such conflict is only heightened by the requirement in section 272(b)(1) that a BOC and its separate affiliate must ''operate independently,'' which, as explained below, presupposes that the BOC may not provide any in-region interLATA services directly.

3. Confronting this apparent conflict, we conclude that our original interpretation—that section 272(e)(4) imposes requirements on BOC provision of interLATA services that the BOCs are otherwise authorized to provide—is the only one that resolves the conflict in a way that squares with the considered policy choice Congress made in imposing a separate affiliate requirement for BOC provision of in-region interLATA services. In the past, where courts and agencies have chosen to impose separate affiliate requirements on the BOCs for competitive services requiring local BOC facilities as an input, the defining feature of such requirements has always been a prohibition on providing such services on an end-to-end physically integrated basis, and for an obvious reason. It is precisely the provision of such services on an end-to-end physically integrated basis that gives rise to the concerns that separate affiliate requirements are intended to address. Our original interpretation of section 272(e)(4) preserves this essential prohibition, while the BOCs' interpretation, under which section 272(e)(4) is a grant of authority, eviscerates it. Our interpretation is bolstered by our view that it is exceedingly unlikely that Congress would have tucked away a fundamental grant of authority in section 272(e), which imposes obligations on the BOCs in response to requests from unaffiliated carriers. The thrust of section 272 is likewise to limit, not expand, BOC authority.

II. Statutory Framework

4. BOC entry into the in-region interLATA services market is governed by sections 271 and 272 of the Communications Act. Section 271(a) states that neither a BOC nor an affiliate ''may provide interLATA services except as provided in this section.'' Section 271(b) grants immediate authorization to a BOC or its affiliate to provide interLATA services originating outside of the BOC's in-region states (''out-of-region'' interLATA services) and to provide six specified ''incidental'' interLATA services. Section 271(f) explains that the prohibition in section 271(a) does not apply to any activities ''previously