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, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 7, 2003.

Debbie Jordan,

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 paragraph (c)(316) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(316) New and amended regulations for the following APCDs were submitted on June 5, 2003, by the Governor's designee.

(i) Incorporation by reference.

(A) Kern County Air Pollution Control District.

(*1*) Rule 417, originally adopted on April 18, 1972, amended on March 13, 2003.

(B) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4313, adopted on March 27, 2003.

* * * * *

[FR Doc. 03–22445 Filed 9–3–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 249–0409; FRL–7546–5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a conditional approval of revisions to the South Coast Air Quality Management District portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on May 13, 2002 and concerns oxides of nitrogen (NO_X) and oxides of sulfur (SO_X) emissions from facilities emitting 4 tons or more per year of NO_X and/or SO_X in the year 1990 or any subsequent year. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action approves local rules that regulate these emission sources and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on October 6, 2003.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, N.W., (Mail Code 6102T), Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

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

A copy of the rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm*. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Thomas C. Canaday, EPA Region IX, (415) 947–4121.

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

I. Proposed Action

On May 13, 2002 (67 FR 31998), EPA proposed a conditional approval of the following rules that were submitted for incorporation into the California SIP.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	2000	General	05/11/01	05/31/01
SCAQMD	2001	Applicability	05/11/01	05/31/01
SCAQMD	2002	Allocations for Oxides of Nitrogen (NO_X) and Oxides of Sulfur (SO_X)	05/11/01	05/31/01
SCAQMD	2004	Requirements	05/11/01	05/31/01
SCAQMD	2005	New Source Review for RECLAIM	04/20/01	10/30/01
SCAQMD	2006	Permits	05/11/01	05/31/01
SCAQMD	2007	Trading Requirements	05/11/01	05/31/01
SCAQMD	2010	Administrative Remedies and Sanctions	05/11/01	05/31/01
SCAQMD	2011	Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions.	05/11/01	05/31/01
SCAQMD	2011–2	Protocol for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions.	03/16/01	05/31/01
SCAQMD	2012	Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions.	05/11/01	05/31/01
SCAQMD	2012–2	Protocol for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions.	03/16/01	05/31/01
SCAQMD	2015	Backstop Provisions	05/11/01	05/31/01
SCAQMD	2020	RECLAIM Reserve	05/11/01	05/31/01

We proposed conditional approval because we determined that these rules improve the SIP by strengthening reporting provisions. These rules are largely consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. However, we also determined that the rules conflict with section 110 and part D of the Act due to their treatment of excess emissions which occur as a result of equipment breakdown. Rules 2000 and 2004 contain provisions which exempt, under certain circumstances, excess emissions that occur during breakdowns from being counted when a RECLAIM facility reconciles its emissions with its RECLAIM Trading Credit (''RTC'') holdings. In our EIP Guidance and our Excess Emissions Policy, EPA interprets the CAA as requiring that such emissions not be exempted.

On April 2, 2002, SCAQMD Executive Officer Barry R. Wallerstein submitted a commitment on behalf of the SCAQMD staff to adopt and submit further revisions to the RECLAIM program rules within one year after publication of today's final conditional approval by EPA of the currently submitted rule revisions. These future revisions will establish a mechanism within the RECLAIM program to mitigate all excess emissions resulting from breakdowns. RECLAIM will be revised to require monitoring and tracking of excess emissions from breakdowns and comparison of the total amount of exempted emissions to the amount of unused RTCs for that year. If total exempted breakdown emissions from all RECLAIM sources exceeds the total amount of unused RTCs program-wide in any year, RECLAIM allocations in the following year will be reduced by an amount equal to that exceedence.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

1. Mike Costa, Our Children's Earth Foundation (OCE); letter dated July 12, 2002 and received July 12, 2002.

2. Suma Peesapati, Communities for a Better Environment (CBE); letter dated July 12, 2002 and received July 12, 2002. Attached to this July 12, 2002 letter was a previous letter from Suma Peesapati, CBE; dated October 9, 2001 that also contained comments pertaining to this rulemaking. We have responded to comments from both of these letters below.

3. Elaine Chang, South Coast Air Quality Management District; letter dated July 11, 2002 and received July 12, 2002. The comments and our responses are summarized below.

Comment #1: CBE stated that the RECLAIM program is fundamentally flawed and, as a result, has not achieved the emission reductions promised during program development. Among the problems that this commenter ascribes to RECLAIM are: (a) Initial over-allocation of credits resulting from artificially inflated baselines; (b) Inadequate safeguards against fraud and uncertainty; (c) Emissions increases from the two largest NO_X source categories.

Response #1: The RECLAIM program establishes a declining cap on emissions from medium and large stationary NO_X sources. The program is not intended to necessarily achieve reductions in every source category. The current enforceable emissions cap is significantly lower than the level of the cap at the time of program inception. Under the subject revised RECLAIM program rules, any emissions in excess of the current emissions cap are required to be mitigated by concurrent reductions in emissions from non-RECLAIM sources, or from subsequent reductions from future-year RECLAIM allocations. EPA has reviewed the submitted revisions to the RECLAIM program rules and has determined that they meet the requirements of the CAA.

Comment #2: CBE stated that SCAQMD has not complied with Rule 2015 which requires SCAQMD to conduct a thorough investigation of the high price of credits in the context of the compliance and enforcement program, and of whether the program provides appropriate incentives to comply.

Response #2: The provisions of Rule 2015 are separate enforceable requirements. Even if the SCAQMD has not complied with Rule 2015, nothing in that rule would bar EPA from approving the subject program rule revisions into the SIP. EPA has reviewed the submitted revisions to the RECLAIM program rules and has determined that they meet the requirements of the CAA.

Comment #3: CBE provided information regarding California's power crisis and commented that the crisis may not have been responsible for the spike in RECLAIM credit prices. If it was, the energy crisis is over and doesn't justify changes to the RECLAIM program. If it wasn't, the price reflects the true cost of foregoing pollution control and represents a healthy market.

Response #3: We believe the subject program rule revisions comply with the CAA and for this reason we proposed their approval. EPA's evaluation of SCAQMD's justification for the submitted rule revisions was not a criterion of our proposed approval of their submittal into the SIP. The rule revisions were evaluated according to the criteria listed in the Technical Support Document (''TSD'') prepared for the proposed conditional approval of the submitted revisions and were found to meet all of the applicable requirements of the CAA except as noted above.

Comment #4: OCE stated that EPA concludes the RECLAIM revisions are needed because the price of credits is too high. However prices have gone as low as $0.75/lb, and have remained virtually unchanged since the early 1990s.

Response #4: The SCAQMD's goal in adopting and submitting the subject rule revisions is to lower and stabilize RTC prices. Since December 2000, RTCs have sold for as much as $45,000/ton or $22.50/lb. EPA has not implied that $0.75/lb. is too high a price for RTCs. The $45,000/ton price is significantly higher than prices paid in the early 1990s and is well in excess of the $15,000/ton benchmark for triggering program reevaluation contained in the SIP-approved Rule 2015.

Comment #5: CBE stated that EPA is allowing the price of credits to drop further, thus allowing the current levels of pollution in the South Coast Air Basin to continue indefinitely.

Response #5: One intended effect of the current program rule revisions is to cause a decrease in the price of RTCs. The cap on the total amount of emissions from RECLAIM facilities has decreased steadily since program inception and will continue to do so through the year 2003. After this the cap will remain constant through the year 2010. This schedule has been unchanged since the inception of the RECLAIM program. Any temporary exceedence of the emissions cap allowed under the revised program rules will be offset by emissions reductions from non-RECLAIM sources or by reductions of future RECLAIM facility allocations.

Comment #6: CBE stated that it is illogical to allow power plants to pay mitigation fees since the price of RTCs is so low.

Response #6: As noted above, there has recently been significant volatility in the prices of RTCs. The Mitigation Fee Program is a temporary option that

power producing facilities will likely only choose to make use of if RTC prices exceed the mitigation fee. Emissions in excess of RTC holdings for which power plants pay mitigation fees will be offset by subsequent emissions reductions from non-RECLAIM sources or by reductions of future RECLAIM facility allocations at those power plants which exceeded their holdings.

Comment #7: OCE stated that the revisions to the RECLAIM program rules violate Sec. 110(l) of the CAA because exemptions provided for power producing facilities will interfere with attainment, RFP, and RACT. The mitigation fee program and exemptions given to power producers in Rules 2004 and 2010 will ''explode the emissions cap'' and interfere with attainment and RFP requirements. The proposed action and associated TSD should have explained the agency's finding that the SIP revisions did not interfere with RFP and attainment.

Response #7: There are no exemptions. Any emissions for which a facility does not possess sufficient RTCs will be offset either by concurrent emissions reductions obtained via the Air Quality Investment Program (for non-power producing facilities) or by concurrent emissions reductions or future reductions of emissions allocations via the Mitigation Fee Program (for power producing facilities). Any emissions for which concurrent offsets are unavailable will be compensated for by subsequent deductions from allocations. Thus the environment will be made whole and RECLAIM facilities will continue to have an incentive to comply with program requirements. The SCAQMD has achieved excess NO_X reductions at present so any temporal shift in RECLAIM reductions between now and 2005 will not affect RFP. Attainment is due in 2010 which is well after the Mitigation Fee Program ends so attainment will not be affected.

Comment #8: OCE stated that the revisions to the RECLAIM program rules immunize power producers from EPA and citizen suits in violation of CAA Section 110 and EPA guidance.

Response #8: While the RECLAIM requirements for power producers have been modified, citizens may still bring suit against RECLAIM facilities to enforce compliance with the revised program requirements.

Comment #9: CBE stated that the proposed SIP revisions remove the incentive for pollution control thereby frustrating RFP and delaying attainment.

Response #9: The RECLAIM cap remains unchanged from the current SIP-approved version of the program. While there may be temporary exceedences of the cap due to power plant emissions in excess of RTC holdings by such facilities, these exceedences will not interfere with RFP because they will be more than offset by surplus reductions already obtained by SCAQMD from mobile sources. Attainment will not be delayed because the MFP will end well before the attainment date.

Comment #10: OCE stated that EPA approved the program rule revisions solely on the basis that the revisions did not relax the SIP. *Hall* v. *EPA* requires EPA to do more.

Response #10: This was not the basis for our action. We performed the analyses described above pertaining to attainment, RFP, and RACT.

Comment #11: OCE stated that requirements for quarterly compliance are lifted for power producing facilities. Because pollution occurs on a daily basis, RECLAIM should continue to assure quarterly rather than annual compliance.

Response #11: The purpose of the quarterly compliance requirements is to assure that correct and timely demand signals are sent to the market and price signals are received by the facilities. Now that power producers are temporarily not allowed to buy credits from the RECLAIM market in general and their price is temporarily capped at $7.50/lb. (if they choose to participate in the MFP) the purposes of quarterly reconciliation are rendered moot for this period of time.

Comment #12: OCE stated that allocations will not be decreased until the year 2004. Sufficient reductions might not be obtained by then to offset all of the emissions of facilities utilizing the MFP.

Response #12: Allocations will be decreased if and when there is a shortfall of reductions obtained through projects funded via the MFP. This will happen beginning in the year 2003 (for year 2000 exceedences) and will end no later than the year 2005. By this point all power plant emissions will have been reconciled with RTCs, offset by reductions funded through the MFP, or deducted from facility allocations.

Comment #13: OCE stated that EPA's proposed action did not demonstrate that RECLAIM fulfills RACT requirements. Does the MFP interfere with RACT requirements by allowing facilities to exceed allocations until 2004?

Response #13: RACT-in-the-aggregate was demonstrated at the beginning of RECLAIM in 1993. Since then the emissions cap has declined significantly. RACT is required in the aggregate across all RECLAIM facilities only. There is no CAA requirement, under an EIP, that individual facilities or particular source categories meet RACT.

Comment #14: OCE stated that it is unclear what is meant by ''best available information'' which is the basis for environmental dispatch under Rule 2009. Also, Rule 2009 requires power producers to implement BARCT. What is the difference between BARCT and RACT?

Response #14: Rule 2009 was not submitted to EPA and is not part of this rulemaking. BARCT is defined under California state law and not under the CAA. This is a state-only requirement. As it happens, BARCT is more stringent than RACT.

Comment #15: OCE stated that Rule 2009 has not been submitted to EPA. Therefore the BARCT requirement for power plants will not be enforceable by citizens or EPA. Without the implementation of BARCT the MFP will fail.

Response #15: Such enforcement is not necessary to meet the requirements of the CAA. RFP is assured because of the excess NO_X reductions already obtained by the SCAQMD through mobile sources measures. Attainment will not be interfered with by the MFP since the MFP will no longer be in effect well before the attainment date. Power producing facilities may seek to offset any emissions in excess of their RTC holdings via the MFP. Their participation fees will be used by the SCAQMD to obtain offsetting reductions from non-RECLAIM sources. Any shortfall in reductions obtained will be made up for through deductions from future-year allocations for those facilities that experienced exceedences. The MFP is a temporary program that will end by 2005. All exceedences are required to be reconciled by this time irrespective of whether a power producing facility has installed BARCT.

Comment #16: OCE stated that EPA has approved ''pilot credits'' to be used in the MFP. How can credits not yet acquired meet the EIP requirements for surplus, quantifiable, enforceable, and permanent?

Response #16: EPA has not approved any credits but rather has approved credit generation rules that themselves contain protocols which will assure that credits generated thereunder will meet the EIP requirements. See 67 FR 5729, February 7, 2002.

Comment #17: OCE stated that EPA should have addressed all of the issues raised in these comments in the FRN and especially in the TSD. EPA should remove the proposed conditional

approval until these issues are fully explored and supported.

Response #17: The TSD and FRN listed the documents containing all of the criteria which were used in evaluating the submitted rules. It was not necessary or feasible to state explicitly in the FRN and TSD how each rule met each element contained in all of these documents. The explanation as to why the power plants were separated from the rest of the RECLAIM market and why they were required to put on controls is provided in the Staff Reports drafted by the SCAQMD for each of the subject rules and attached to the TSD as well as in the TSD itself. As stated in the TSD, the power producing facilities were separated from the rest of the RECLAIM market and trading was limited to isolate the rest of the market from RTC demands from the power producing facilities. The current SIP submittal does not require power producing facilities to install controls but does contain enforceable requirements that will assure that their emissions are reconciled with their RTC holdings. It should be noted that adopted state law does require these facilities to install controls.

The next two comments are summarized from letters CBE wrote to SCAQMD during development of five RTC generation rules and were attached to CBE's October 9, 2001 comment letter to EPA. Since CBE's October 9, 2001 letter is quite extensive and raises many of the same issues as its attachments, we believe the attachments were included only as background information and not intended as comments to our May 13, 2002 proposal. We also note that many of the issues in the attachments are not relevant to our proposal because they were raised in context of SCAQMD's local rulemaking. As a result, we do not believe we need to respond to the issues raised in the attachments. As a courtesy to the commenter, however, we have summarized and responded to these comments below.

Comment #18: CBE stated that the RECLAIM program has already violated California Health and Safety Code section 39616(c), which require EIPs to reduce emissions as much or more than the programs they replace. A generous estimate of actual overall reductions resulting from RECLAIM is 16% since 1993. Approving the RECLAIM amendments and associated credit rules will only exacerbate the problem. CBE also stated that the Mitigation Fee Program and the RECLAIM AQIP violate the equivalency requirement under State Law.

Response #18: On February 13, 2003, Jack P. Broadbent, Director of the Air Division for EPA Region IX, sent a letter to Catherine Witherspoon, Executive Officer of the California Air Resources Board (''CARB''), requesting assistance in responding to the above comments. Since CARB is the designated air pollution control agency for purposes of the preparation of SIPs (California Health and Safety Code section 39602) we asked CARB to advise us whether the substantive and/or procedural requirements of section 39616 apply to the promulgation of the RECLAIM revisions. Further we requested that if CARB believed that the requirements of section 39616 did apply, that CARB describe the actions taken by SCAQMD and CARB to comply with these requirements. In a letter dated April 24, 2003, from Catherine Witherspoon to Jack P. Broadbent, CARB responded to our request. CARB's April 24, 2003 letter noted that the subject rule revisions were adopted by SCAQMD and subsequently approved by CARB and submitted to EPA for incorporation into the SIP. In reviewing the SCAQMD rule revisions, CARB considered CBE's claims (which had been raised at that time) and interpreted the relevant provisions of state law. To summarize CARB's findings, they believe that the requirements of section 39616 are limited to the initial adoption of rules to implement the RECLAIM program and that review of amendments to some of the RECLAIM rules to implement necessary program adjustments are not subject to these provisions. CARB also pointed out that they reviewed the RECLAIM rule amendments substantively and are satisfied they do not undermine the SIP. For a much more detailed explanation of CARB's analysis see their April 24, 2003 letter, a copy of which can be obtained from EPA Region IX at the address listed above.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in sections 110(k)(4) of the Act, EPA is finalizing a conditional approval of the submitted rules to improve the SIP. This action incorporates into the SIP both the submitted rules and the commitment to correct the identified deficiency within one year.

This conditional approval shall be treated as a disapproval if the SCAQMD fails to adopt rule revisions to correct the deficiency within the time allowed. If this rule is disapproved, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that corrects the rule deficiency within 18 months. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rules have been adopted by the SCAQMD, and EPA's final conditional approval does not prevent the local agency from enforcing them.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

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

B. Paperwork Reduction Act

This 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.*)

C. Regulatory Flexibility Act

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 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 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 Clean Air Act, preparation of 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).

D. Unfunded Mandates Reform Act

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.

E. Executive Order 13132, Federalism

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 Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

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.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. 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.

J. Congressional Review Act

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 this rule 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 the rule 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). This rule will be effective October 6, 2003.

K. 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 November 3, 2003. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: July 14, 2003.

Laura Yoshii,

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)(282)(i)(A)(2) and (c)(288)(i)(E) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(282) * * *

(i) * * *

(A) * * *

(*2*) Rules 2000, 2001, 2002, 2004, 2006, 2007, 2010, 2011, 2012, 2015, and 2020 adopted on May 11, 2001; and Rules 2011–2 and 2012–2 adopted on March 16, 2001.

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(288) * * *

(i) * * *

(E) South Coast Air Quality Management District.

(*1*) Rule 2005 adopted on April 20, 2001.

* * * * *

[FR Doc. 03–22444 Filed 9–3–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[Petition IV–2002–1; FRL–7552–6]

Clean Air Act Operating Permit Program; Petition for Partial Objection and Partial Granting to State Operating Permits for TVA John Sevier Fossil Plant, Rogersville, TN and TVA Kingston Fossil Plant, Harriman, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to partially object and partially grant to a state operating permit.

SUMMARY: Pursuant to Clean Air Act section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an order, dated July 2, 2003, partially denying and partially granting a petition to object to a state operating permit issued by the Tennessee Department of Environment and Conservation (TDEC) to the TVA John Sevier Fossil Plant located in Rogersville, Hawkins County, Tennessee and the TVA Kingston Fossil Plant located in Harriman, Roane County, Tennessee. This order constitutes final action on the petition submitted by attorney Reed Zars on behalf of the National Parks Conservation Association (Petitioner). Pursuant to section 505(b)(2) of the Clean Air Act (the Act) judicial review of this action is available to the extent the petition has been denied by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of this notice under section 307 of the Act.

ADDRESSES: Copies of the final order, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The final order is also available electronically at the following address:

FOR FURTHER INFORMATION CONTACT: Daphne Wilson, Air Permits Section, EPA Region 4, at (404) 562–9098 or *wilson.daphne@epa.gov.*

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review and, as appropriate, to object to operating permits proposed by state permitting authorities under Title V of the Act, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the Act and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a Title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Reed Zars submitted a petition on behalf of the National Parks Conservation Association to the Administrator on November 18, 2002, requesting that EPA object to a state Title V operating permit issued by TDEC to TVA John Sevier Fossil Plant and Kingston Fossil Plant. The Petitioner maintains that the TVA permit is inconsistent with the Act because: (1) The permit condition fails to ensure compliance with the applicable opacity limits; (2) TDEC improperly shields the source from its requirement to independently certify compliance; (3) TDEC does not have the ability to make changes to the SIP without EPA approval.

On July 2, 2003, the Administrator issued an order partially denying and partially granting this petition. The order explains the reasons behind EPA's conclusion that the petitioner has demonstrated cause to reopen the permits based on the first and second issues. The order also explains the reason for denying the remaining claim.

Dated: August 25, 2003.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. 03–22545 Filed 9–3–03; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 03–180]

Modification of the Commission's Rules; Local and State Government Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts revisions to the rules governing the Commission's Local and State Government Advisory Committee, which is composed of 15 elected and appointed officials of municipal, county, state, and tribal governments, and advises the Commission on a range of telecommunications issues for which these governments explicitly or inherently share responsibility or administration with the Commission. The revisions rename the Committee the Intergovernmental Advisory Committee to reflect the reallocation of two additional membership slots to tribal governments; limit its term of operations to two years, with an option for reauthorization at the end of the two-year period; and provide for greater diversity in the Committee's membership, including increased representation of rural interests and expertise in homeland security matters.