

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).

This final rule also does not have tribal implications because it 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 final 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. This final rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (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 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. This final 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.*).

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 7, 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

##### 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

##### 40 CFR Part 81

Environmental protection, Air pollution control.

Dated: February 24, 2003.

**Alexis Strauss,**

*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 D—California

■ 2. Section 52.220 is amended by adding paragraph (c)(306) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(306) The following plan was submitted on December 5, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Kern County Air Pollution Control District.

(1) PM-10 (Respirable Dust) Attainment Demonstration, Maintenance Plan, and Redesignation Request (excluding pages 4-1, 4-2, 6-1, 6-2, Appendix A, and pages D-12 through D-37 of Appendix D) adopted on September 5, 2002.

(B) California Air Resources Board, California.

(1) California Air Resources Board Executive Order G-125-295 adopted on December 4, 2002.

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#### PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.305 the PM-10 table is amended by revising the entry for the Indian Wells Valley planning area under "Fresno, Kern, Kings, Tulare, San Joaquin, Stanislaus, Madera Counties" to read as follows:

##### § 81.305 California.

\* \* \* \* \*

#### CALIFORNIA—PM-10

Designated area	Designation	Date <sup>1</sup>		Classification	
		Type		Date <sup>1</sup>	Type
* * *	* * *				
Fresno, Kern, Kings, Tulare, San Joaquin, Stanislaus, Madera Counties:					
Indian Wells Valley planning area .....	09/5/02	Nonattainment .....		July 7, 2003	Attainment.
That portion of Kern County contained within Hydrologic Unit #18090205.					
* * *	* * *				

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.