found in title V of the Act and in 40 CFR part 70, which mandate that States develop, and submit to the EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources with the exception of Indian Lands.

Requirements for title V approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a mechanism for delegation of Federal section 112 standards as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under 40 CFR part 70. Therefore, as part of this interim approval, the EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of the State's mechanism for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated when requested by the State. The State will receive delegation of the remaining standards through other section 112(l) delegation processes.

The EPA has reviewed this submittal of the Texas operating permits program and is proposing source category-limited interim approval for a period of two years. Certain defects in the State's permit regulation and program implementation preclude the EPA from granting full approval of the State's operating permits program at this time. The EPA is proposing to grant interim approval, subject to the State obtaining the needed regulatory and program implementation revisions within 18 months after the Administrator's approval of the Texas title V program pursuant to 40 CFR 70.4.

IV. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Copies of the State's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, the EPA in the development of this proposed interim approval. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) To serve as the record in case of judicial review. The EPA will consider any comments received by July 7, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

VI. Miscellaneous

A. Interim Approval

Proposed interim approval of the part 70 operating permits program for the State of Texas.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 3, 1995.

A. Stanley Meiburg,

Deputy Regional Administrator (6D).

[FR Doc. 95–13926 Filed 6–6–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 81

[FRL–5217–3]

Clean Air Act Reclassification; Arizona-Phoenix Nonattainment Area; PM–10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action EPA proposes to find that the Phoenix metropolitan PM–10 nonattainment area has not attained the PM–10 national ambient air quality standards (NAAQS) by the Clean Air Act (CAA) mandated attainment date for moderate nonattainment areas. Section 188(c)(1) of the Act established an attainment date of no later than December 31, 1994 for areas classified as moderate nonattainment areas under section 107(d)(4)(B) of the CAA. This proposed finding is based on monitored air quality data for the PM–10 NAAQS during the years 1992–94. If EPA takes final action on this proposed finding, the Phoenix Planning Area (PPA) will be reclassified by operation of law as a serious nonattainment area for PM–10 under section 188(b)(2)(A) of the CAA.

DATES: Comments on this proposed finding must be received in writing by July 7, 1995.

ADDRESSES: Comments should be addressed to Robert Pallarino, U.S. Environmental Protection Agency, Region 9, Air and Toxics Division, Air Planning Branch, Plans Development Section (A–2–2), 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Robert S. Pallarino, U.S. EPA, Region 9, Air and Toxics Division, Air Planning Branch, Plans Development Section (A–2–2), 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1212.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation and Classification

On November 15, 1990, the date of enactment of the 1990 Clean Air Act Amendments, PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated nonattainment by operation of law. Once an area is designated nonattainment, section 188 of the Act outlines the process for classification of the area and establishes the area's attainment date. Pursuant to section 188(a), all PM–10 nonattainment areas were initially classified as moderate by operation of law upon designation as nonattainment. These nonattainment designations and moderate area classifications were codified in 40 CFR part 81 in a **Federal Register** document published on November 6, 1991 (56 FR 56694).

States containing areas which were designated as moderate nonattainment by operation of law under section 107(d)(4)(B) were to develop and submit state implementation plans (SIPs) to provide for the attainment of the PM–10 NAAQS. Pursuant to section 189(a)(2), those SIP revisions were to be submitted to EPA by November 15, 1991.

B. Reclassification as Serious Nonattainment

EPA has the responsibility, pursuant to sections 179(c) and 188(b)(2) of the Act, of determining within 6 months of the applicable attainment date, whether PM–10 nonattainment areas have attained the NAAQS. Section 179(c)(1) of the Act provides that these determinations are to be based upon an area's ''air quality as of the attainment

date'', and section 188(b)(2) is consistent with this requirement. EPA makes the determinations of whether an area's air quality is meeting the PM–10 NAAQS based upon air quality data gathered at monitoring sites in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). These data are reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR part 50, Appendix K.

Pursuant to Appendix K, attainment of the annual PM–10 standard is achieved when the annual arithmetic mean PM–10 concentration is equal to or less than 50 μg/m^3. Attainment of the 24 hour standard is determined by calculating the expected number of exceedances of the 150 μg/m^3 limit per year. The 24 hour standard is attained when the expected number of exceedances is 1.0 or less. A total of 3 consecutive years of clean air quality data is generally necessary to show attainment of the 24 hour and annual standards for PM–10. A complete year of air quality data, as referred to in 40 CFR part 50, Appendix K, is comprised of all 4 calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

Under section 188(b)(2)(A) a moderate PM–10 nonattainment area must be reclassified as serious by operation of law after the statutory attainment date if the Administrator finds that the area has failed to attain the NAAQS. Pursuant to section 188(b)(2)(B) of the Act, EPA must publish a document in the **Federal Register** identifying those areas that failed to attain the standard and the resulting reclassifications.

II. Today's Action

EPA is, by today's action, proposing to find that the PPA did not attain the PM–10 NAAQS by the required attainment date of December 31, 1994. As discussed below, this proposed finding is based upon air quality data which revealed violations of the PM–10 NAAQS during 1992–1994.

A. Ambient Air Monitoring Data

The following table lists each of the monitoring sites in the PPA where the 24 hour PM–10 NAAQS has been exceeded during 1992–1994:

Monitoring site	24 hour concentration	Date
4732 S. Central, PX.	171 μg/m^3	11/20/92
4732 S. Central, PX.	158 μg/m^3	12/2/92
1475 E. Pecos, CHAN.	156 μg/m^3	11/20/92

The two monitoring sites in the PPA that recorded exceedances of the PM–10 NAAQS operate on a one in six day sampling schedule. Generally, if PM–10 sampling is scheduled less than every day, EPA requires the adjustment of observed exceedances to account for incomplete sampling. The method for adjusting the observed exceedances is described in 40 CFR Part 50, Appendix K, section 3.1. In the case of the Phoenix site, two exceedances of the 24 hour NAAQS were observed in 1992. After adjusting for incomplete sampling, the number of exceedances of the NAAQS in 1992 at this site was 13.1. In the case of the Chandler site, one exceedance of the 24 hour NAAQS was observed in 1992. After adjusting for incomplete sampling, the number of exceedances of the NAAQS in 1992 at this site was 11.5.

According to 40 CFR part 50, the 24 hour NAAQS is attained when the expected number of days per calendar year with a 24 hour average concentration above 150 μg/m^3 is equal to or less than one. In the simplest case, the number of expected exceedances at a site is determined by recording the number of exceedances in each calendar year and then averaging them over the past three calendar years. Therefore from 1992–1994, the number of expected exceedances at the Phoenix and Chandler monitoring sites were 4.4 and 3.8, respectively. These exceedances cause both the Phoenix site and the Chandler site to be in violation of the 24 hour PM–10 NAAQS.

In addition to violations of the 24 hour NAAQS, the annual standard has not been attained at one monitoring site. The East Pecos site in Chandler had an annual average of 55 μg/m^3, based on the monitoring data collected during 1992–1994.

B. SIP Requirements for Serious Areas

PM–10 nonattainment areas reclassified as serious under section 188(b)(2) of the CAA are required to submit, within 18 months of the area's reclassification, SIP revisions providing for the implementation of best available control measures (BACM) no later than four years from the date of reclassification. The SIP also must contain a demonstration that the implementation of BACM will provide for attainment of the PM–10 NAAQS no later than December 31, 2001. EPA has provided specific guidance on developing serious area PM–10 SIP revisions in an addendum to the General Preamble to Title I of the Clean Air Act. See 59 FR 41998 (August 16, 1994).

III. Request for Public Comment

The EPA is requesting comment on all aspects of today's proposal. As indicated at the outset of this notice, EPA will consider any comments received by July 7, 1995.

IV. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.''

The Agency has determined that the finding of failure to attain proposed today would result in none of the effects identified in section 3(f). Under section 188(b)(2) of the CAA, findings of failure to attain and reclassification of nonattainment areas are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in-and-of-themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities.

V. Regulatory Flexibility

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.

As discussed in section IV of this notice, findings of failure to attain and

reclassification of nonattainment areas under section 188(b)(2) of the CAA do not in-and-of-themselves create any new requirements. Therefore, I certify that today's proposed action does not have a significant impact on small entities.

VI. Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local or tribal governments in the aggregate.

EPA believes, as discussed earlier in section IV of this notice, that the proposed finding of failure to attain and reclassification of the Phoenix Planning Area are factual determinations based upon air quality considerations and must occur by operation of law and, hence, do not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 25, 1995.

David P. Howekamp,

Acting Regional Administrator.

[FR Doc. 95–13925 Filed 6–6–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 180

[PP 0F3885/R2142; FRL–4958–9]

RIN 2070–AC18

Burkholderia (Pseudomonas) Cepacia Type Wisconsin; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of the biological pesticide *Burkholderia (Pseudomonas) cepacia* type Wisconsin in or on all raw agricultural commodities, resulting from use on plant roots or seedling roots. EPA is proposing this regulation on its own initiative. The proposal would amend the existing tolerance exemption for this organism, which is limited to the seed treatment use.

DATES: Comments identified by the docket number, [PP 0F3885/R2142], must be received on or before July 7, 1995.

ADDRESSES: Submit written comments by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Public Docket, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures as set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the above address, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 0F3885/R2142]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Denise Greenway, Biopesticides and Pollution Prevention Division (7501W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51L6, Crystal Station #1, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8263; e-mail: greenway.denise@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 3, 1991 (56 FR 13642), EPA issued a notice that Stine Microbial Products, 4722 Pflaum Rd., Madison, WI 53704, had submitted pesticide petition (PP) 0F3885 to EPA proposing to amend 40 CFR part 180 by establishing a regulation pursuant to the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a and 371), to exempt from the requirement of a tolerance the residues of the biological pesticide *Pseudomonas cepacia* type Wisconsin in or on all raw agricultural commodities when applied as a seed treatment for growing agricultural crops in accordance with good agricultural practices. There were no comments received in response to the notice.

In the **Federal Register** of December 23, 1992 (57 FR 61003), an exemption from the requirement of a tolerance was established for residues of the biological pesticide *Pseudomonas cepacia* type Wisconsin in or on all raw agricultural commodities when applied as a seed treatment for growing agricultural crops in accordance with good agricultural practices.

Stine Microbial Products has subsequently proposed a new use site, plant roots or seedling roots. Like the seed treatment use for which an exemption from the requirement of a tolerance now exists (40 CFR 180.1115), *Pseudomonas cepacia* type Wisconsin applied to plant roots or seedling roots will colonize the developing root system, and by producing antibiotics, protect the seedling or plant from a range of plant pathogenic fungi and nematodes. The Agency has determined that this presents no new hazard issues and that the following originally submitted data can support the registration for use as a soil, seed, or seedling treatment:

The organism is a naturally occurring biotype of the bacterial species *Pseudomonas cepacia* which is found world wide. The original isolates of *Pseudomonas cepacia* type Wisconsin were identified as colonizers of the roots and rhizospheres of maize. Further testing indicated that this biotype will colonize roots of many crop plants. *Pseudomonas cepacia* type Wisconsin has been shown to produce antibiotics which are effective against a diverse range of plant pathogenic fungi. *Pseudomonas cepacia* type Wisconsin is not generally regarded as a human or animal pathogen. Products containing this organism are intended to be used for formulating other end-use products or as a seed treatment (and the proposed plant root and seedling root use). When applied to seeds (or plant or seedling roots), the bacteria colonize the developing root system, and by producing antibiotics, protect the seedling from a range of plant pathogenic fungi and nematodes.

The data submitted in the petition and other relevant material have been