Maryland for the purpose of establishing volatile organic compound (VOC) emission control requirements for sheet-fed and web lithographic printing and amending control requirements for paper, fabric, vinyl and plastic parts coating. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.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.

DATES: Comments must be received in writing by October 2, 1997.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone/CO and Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Donahue, (215) 566–2095, at the EPA Region III office address listed above, or via e-mail at donahue.carolyn@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title, pertaining to Maryland's sheet-fed and web lithographic printing regulations, which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 15, 1997.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 97–23029 Filed 8–29–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5883–5]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Reasonably Available Control Technology for Nitrogen Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision establishes and requires Reasonably Available Control Technology (RACT) at stationary sources of nitrogen oxides (NO_X). In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before October 2, 1997.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA, and Division of Air and Hazardous Materials, Rhode Island Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, Environmental Engineer, Air Quality Planning Unit (CAQ), U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203–2211; (617) 565–2773; Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401—7671q.

Dated: August 19, 1997.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 97–23229 Filed 8–29–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AZ–001–BU; FRL–5886–7]

Clean Air Act Reclassification; Arizona—Phoenix Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to determine that the Phoenix, Arizona moderate ozone nonattainment area has not attained the 1-hour ozone national ambient air quality standard (NAAQS) by the Clean Air Act (CAA) mandated attainment date for moderate nonattainment areas, November 15, 1996. EPA also proposes to deny the State of Arizona's application for a one-year extension of the November 15, 1996 attainment date for the Phoenix area. The proposed determination and denial are based in whole or in part on EPA's review of monitored air quality data from 1994 through 1996 for compliance with the 1-hour ozone NAAQS. If EPA takes final action on the determination and denial as proposed, the Phoenix ozone nonattainment area will be reclassified by operation of law as a serious nonattainment area. The effect of such a reclassification would be to continue progress toward attainment of the 1-hour ozone NAAQS through the development of a new State implementation plan (SIP) addressing attainment of that standard by November 15, 1999.

DATES: Comments on this proposal must be received in writing by October 2, 1997. Comments should be addressed to the contact listed below.

ADDRESSES: Copies of the State extension request, EPA's draft technical support document for this rulemaking, and EPA's policies governing attainment findings and extension requests are contained in the docket for this rulemaking. A copy of this notice is also

available in the air programs section of EPA Region 9's website, http://www.epa.gov/region09. The docket is available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 9, Office of Air Planning, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. (415) 744–1248;

Arizona Department of Environmental Quality, Office of Outreach and Information, First Floor, 3033 N. Central Avenue, Phoenix, Arizona 85012. (602) 207–2217; and

Maricopa County Environmental Services Department, Technical Services Division, 1001 N. Central Avenue, Suite 201, Phoenix, Arizona 85004 (602) 506–6010.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. (415) 744–1248.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation and Classifications

The Clean Air Act Amendments of 1990 (CAA) were enacted on November 15, 1990. Under section 107(d)(1)(C) of the CAA, each ozone area designated nonattainment for the 1-hour ozone NAAQS prior to enactment of the 1990 Amendments, such as the Phoenix area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments.[1] Under section 181(a) of the Act, each ozone area designated nonattainment under section 107(d) was also classified by operation of law as ''marginal,'' ''moderate,'' ''serious,'' ''severe,'' or ''extreme'' depending on the severity of the area's air quality problem. Ozone nonattainment areas with design values between 0.138 and 0.16 parts per million (ppm), such as the Phoenix area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56694 (November 6, 1991).

States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit State implementation plans (SIPs) designed to show progress towards attainment, and attainment of the ozone NAAQS as expeditiously as practicable but no later than November 15, 1996. Moderate area SIP requirements are found primarily in section 182(b) of the CAA.

B. Reclassification to Serious

EPA has the responsibility, pursuant to section 181(b)(2)(A) of the CAA, of determining, within six months of the applicable attainment date (including any extension of that date) whether an ozone nonattainment area has attained the ozone NAAQS. Under section 181(b)(2)(A), if EPA finds that a moderate area has not attained the ozone NAAQS, it is reclassified by operation of law to the higher of the next higher classification or to the classification applicable to the area's design value at the time of the finding. Pursuant to section 181(b)(2)(B) of the Act, EPA must publish a notice in the **Federal Register** identifying areas which failed to attain the standard and therefore must be reclassified by operation of law.

The 1-hour ozone NAAQS is 0.12 ppm not to be exceeded on average more than one day per year over any three year period. 40 CFR 50.9 and Appendix H. EPA makes attainment determinations for ozone nonattainment areas using the most recently available, quality-assured air quality data covering the 3-year period up to and including the attainment date.[2] Consequently, EPA will determine whether the Phoenix area's air quality has met the moderate area attainment deadline of November 15, 1996 based upon all 1994, 1995, and 1996 (through November 15) quality-assured air quality data available to the Agency.[3] From the available data, EPA determines the average number of exceedances per year at each ozone monitor during this period. If this number is greater than one at any monitor, then the area is determined to have not attained by November 15, 1996. EPA then calculates the design value for the area to determine the correct new classification.[4] A design value is an air quality concentration and is a measure of the severity of an area's air quality. Ozone design values are used to determine the correct classification of an area and to determine the level of controls needed for attainment.

C. Attainment Date Extensions

If a state does not have the clean data necessary to show attainment of the NAAQS, it may apply, under section 181(a)(5) of the CAA, for a one year attainment date extension. Issuing an extension is discretionary, but EPA can exercise that discretion only if the state has: (1) Complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than one exceedance of the ozone NAAQS at any monitoring site in the nonattainment area in the year preceding the extension year. Section 181(a)(5) and Berry memorandum. Under section 181(a)(5), EPA may issue up to two such extensions if these conditions have been met. The CAA's extension provision is intended to grant areas close to attainment a short additional period in which to demonstrate that they are in fact attaining the standard. The underlying premise of an extension is that an area already has in place a control strategy adequate to attain the ozone standard and that no additional measures are necessary.

Areas that apply for an extension should document that they have initiated rule development activities in order to meet the Act's requirements associated with the new classification. Berry memorandum.

D. The Use of Special Purpose Monitoring Data

EPA's policy on the use of ozone special purpose monitoring data is discussed briefly below and is described in the *Memorandum* entitled ''Agency

[1] On July 18, 1997 (62 FR 38856), EPA revised the ozone NAAQS to establish a 8-hour standard; however, in order to ensure an effective transition to the new 8-hour standard, EPA also retained the 1-hour NAAQS for an area until such time as it determines that the area meets the 1-hour standard. See revised 40 CFR § 50.9 at 62 FR 38894. As a result of retaining the 1-hour standard, CAA part D, subpart 2 *Additional Provisions for Ozone Nonattainment Areas,* including the reclassification provisions of section 181(b), remain applicable to areas that are not attaining the 1-hour standard. Unless otherwise indicated, all references in this notice are to the 1-hour ozone NAAQS.

[2] See generally 57 FR 13506 (April 16, 1992) and *Memorandum* from D. Kent Berry, Acting Director, Air Quality Management Division, EPA, to Regional Air Office Directors; ''Procedures for Processing Bump Ups and Extensions for Marginal Ozone Nonattainment Areas,'' February 3, 1994 (Berry memorandum). While explicitly applicable only to marginal areas, the general procedures for processing reclassifications and extension requests described in this memorandum apply regardless of the initial classification of an area because all reclassifications are made pursuant to the same Clean Air Act requirements in section 181(b)(2).

[3] All quality-assured available data includes all data available from the state and local/national air monitoring (SLAMS/NAMS) network as submitted to EPA's AIRS system and all data available to EPA from special purpose monitoring (SPM) sites that meet the requirements of 40 CFR 58.13. See *Memorandum* John Seitz, Director, OAQPS, to Regional Air Directors; ''Agency Policy on the Use of Ozone Special Purpose Monitoring Data,'' August 22, 1997 and section I.D. of this notice.

[4] See *Memorandum* from William G. Laxton, Director, Technical Support Division to the Regional Air Directors; ''Ozone and Carbon Monoxide Design Value Calculations,'' June 18, 1990.

Policy on the Use of Ozone Special Purpose Monitoring Data'' from John Seitz, Director, Office of Air Quality Planning and Standards, to the Regional Air Directors, August 22, 1997.

40 CFR 50.9 and Appendix H set forth the method for determining whether the ozone standard has been met. Section 50.9 provides:

> The standard is attained when the expected number of days with maximum hourly average concentrations above 0.12 ppm is equal to or less than 1, as determined by Appendix H.

Monitoring to determine attainment under section 50.9 and Appendix H is governed by 40 CFR part 58. As the Agency charged with implementing the Clean Air Act, EPA has the authority to establish the mechanisms necessary to monitor air quality. See CAA sections 103(c), 110(a)(2)(B), 301(a), and 319. Pursuant to this authority, EPA has required that each state's implementation plan ensure the establishment of an official network of air pollution monitors, as set forth in 40 CFR part 58. The official network is referred to as the State and Local Air Monitoring Stations (SLAMS) network.

Data from SLAMS monitors are quality assured by the state and local agencies prior to submission to EPA, and again by EPA when the data are entered into EPA's database. Through this system, EPA ensures that its regulatory decisions are based on scientific data that meet a consistent standard of reliability.

For data from monitors that are not part of the SLAMS network required by part 58, EPA regulations provide that EPA will exclude the data when they do not meet the terms of 40 CFR 58.14 Special purpose monitors. Section 58.14(a) provides:

> Any ambient air quality monitoring station other than a SLAMS or [prevention of significant deterioration] station from which the State intends to use the data as part of a demonstration of attainment or nonattainment or in computing a design value for control purposes of the [NAAQS] must meet the requirements for SLAMS described in section 58.22 and, after January 1, 1983, must also meet the requirements for SLAMS as described in section 58.13 and appendices A and E to this part.

Sections 58.13 and 58.22 prescribe the operating schedule and monitoring methodology, respectively, for SLAMS monitors. Appendix A contains quality assurance criteria to be followed by SLAMS monitors, and Appendix E contains siting criteria for monitoring instruments.

Section 58.14(b) further provides:

> Any ambient air quality monitoring station other than a SLAMS or PSD station from which the State intends to use the data for SIP-related functions other than as described in paragraph (a) of this section is not necessarily required to comply with the requirements for a SLAMS station under paragraph (a) but must be operated in accordance with a monitoring schedule, methodology, quality assurance procedures, and probe or instrument-siting specifications approved by the Regional Administrator.

Thus, under its current regulations, if data recorded at special purpose monitors meet the criteria of section 58.14, there is no basis for EPA to exclude those data from consideration. Data which meet the requirements of section 58.14(a) have been demonstrated to be of equivalent reliability as official network monitors, and absent an explicit regulatory basis for exclusion, must be taken into account. Since the reliability of these data is based solely on technical and scientific considerations, EPA has concluded that a state's intended use of the SPM data is not an appropriate factor in determining whether data from SPMs that otherwise meet the requirements of section 58.14 may be excluded from consideration in ozone designation and classification determinations, in computing an ozone design value for control purposes, or for other ozone SIP-related purposes.

II. Proposal in Regard to the Phoenix Ozone Nonattainment Area

A. The State of Arizona's Extension Application

On May 2, 1997, the Arizona Department of Environmental Quality (ADEQ) requested a one-year extension of the ozone attainment date for the Phoenix area. Letter, Russell F. Rhoades, Director, ADEQ to Felicia Marcus, Regional Administrator, U.S. EPA Region 9, May 2, 1997. In the letter, the State discusses the Phoenix area's compliance with the Clean Air Act's two minimum criteria for an extension and also describes the State's continuing efforts to ensure progress toward ozone attainment. Attached to the letter is a table listing all 1996 exceedances of the 1-hour ozone standard in and around the Phoenix area. This table listed not only the one exceedance recorded at a SLAMS site (the Mesa site) but also the nine exceedances recorded at special purpose monitoring (SPM) sites in the area. This list of exceedances is reproduced in Table 1.

TABLE 1.—OZONE EXCEEDANCES IN MARICOPA COUNTY—1996

Site	Type of site	Date	PPM
Blue Point	SPM	July 23, 1996	0.140
Blue Point	SPM	August 16, 1996	0.132
Falcon Field	SPM	July 23, 1996	0.129
Fountain Hills	SPM	May 21, 1996	0.128
Fountain Hills	SPM	June 4, 1996	0.126
Fountain Hills	SPM	July 23, 1996	0.129
Fountain Hills	SPM	August 28, 1996	0.132
Mesa	SLAMS	July 23, 1996	0.127
Mt. Ord	SPM	May 21, 1996	0.130
Salt River Pima	SPM	July 23, 1996	0.130

The Falcon Field and Fountain Hills monitoring sites are operated by the Maricopa County Environmental Services Department (MCESD) and are located along the rapidly-growing eastern edge of the metropolitan Phoenix area.[5] These sites were established in 1989 and 1996, respectively, and have been operated since as SPMs.[6] The sites were

[5] The Blue Point and Mount Ord monitors are located outside the boundaries of the Phoenix ozone nonattainment area but are clearly influenced by emissions from the nonattainment area. For the purposes of this notice, however, EPA has not considered data from these monitors but may do so in future notices.

[6] EPA has requested the conversion of these sites to SLAMS. See letter, John Kennedy, U.S. EPA—Region 9 to Al Brown and Violette Brown, MCESD, February 10, 1997. The County has requested until conclusion of the State's air monitoring task force late this fall before responding to EPA's request.

established in response to several audits (including one by EPA) that found the County's monitoring network inadequate to meet minimum monitoring requirements in EPA's regulations. EPA's monitoring regulations require siting monitors in areas of maximum expected ozone concentrations and maximum expected population exposure. Evaluation of the ozone situation in the Phoenix area has indicated that the eastern edge of the area is the most likely region for both maximum ozone concentrations and, because of its high population growth rate, maximum population exposure.

EPA has evaluated the operation of each site in 1996 by reviewing documentation prepared by MCESD and/or by independently auditing each monitor. See *Memorandum,* Bob Pallarino, EPA, to John Kennedy, EPA; ''Adequacy of Maricopa County Ozone Monitoring network,'' July 31, 1997 and *Memorandum,* John Kennedy and Bob Pallarino, EPA, to Debbie Jordan and Frances Wicher, EPA; ''Site Evaluation and Quality Control/Quality Assurance Review of Selected Maricopa County Ozone Monitoring Sites,'' July 25, 1997. Based on its evaluation, EPA has determined that these monitors are sited, equipped, and operated consistent with EPA's regulations at 40 CFR part 58, subpart B and Appendices C and E and that the 1996 data given in Table 1 meets EPA's quality assurance requirements at 40 CFR part 58, Appendix A. Therefore, EPA has considered the ozone exceedances from these SPMs in deciding whether to issue an extension.

EPA is proposing to deny the State of Arizona's application for a one-year extension of the moderate area ozone attainment date for the Phoenix metropolitan nonattainment area. EPA is proposing this denial because the Phoenix area had more than one exceedance at a monitor in 1996 (4 at Fountain Hills) and thus does not meet the second statutory criterion for granting an extension, that is, the area has no more than one exceedance in 1996.

Over the past year, the State of Arizona has been extensively evaluating the Phoenix ozone problem. ADEQ has developed and continues to refine an urban airshed model for the Phoenix area. In early 1996, Governor Symington convened an Air Quality Strategies Task Force to recommend both short- and long-term strategies for improving Phoenix's air quality. The Task Force, which included business, environmental, and local governmental representatives, recommended in December 1996, a number of additional ozone reduction strategies for the area. Many of these strategies are contained in legislation passed in the 1997 Arizona legislative session and were submitted to EPA on April 21, 1997 as part of the State's Voluntary Early Ozone Plan (VEOP). Additionally, on June 3, 1997 (62 FR 30260), EPA approved Governor Symington's request to extend the federal reformulated gasoline (RFG) program to the Phoenix area and RFG is now available there. The State is currently developing its own clean burning gasoline program. These measures are in addition to the existing ozone control strategy that includes the State's premier centralized enhanced vehicle inspection program (approved by EPA on May 8, 1995) that already exceeds the CAA's vehicle inspection and maintenance program requirement for serious areas.

Unfortunately, initial results from the air quality modelling undertaken for the VEOP showed that the existing control strategy even when combined with the additional measures contained in the VEOP were not enough to demonstrate attainment of the ozone standard. Draft VEOP, p. E–8. There were, however, significant technical concerns with these initial modelling results and ADEQ continues to refine the UAM. Preliminary results from this additional work support the draft VEOP's basic finding that the Phoenix area will need additional emission reductions in order to attain the ozone standard. See *Memorandum,* Frances Wicher, EPA, to Docket AZ–001–BU; ''Record of Communication,'' August 8, 1997.

As noted before, the underlying premise of an extension is that an area is close to attainment and already has in place the control strategy needed for attainment. All evidence in front of the Agency indicates that the Phoenix area is not close to attainment of the 1-hour ozone standard and that, despite the State's dedicated efforts to adopt and implement controls, the area will need to continue its on going planning and control efforts. Thus, even if the Phoenix area met the statutory requirements for granting an extension, EPA believes that such an extension would not be appropriate at this time.

B. Proposed Nonattainment Determination

Attainment of the 1-hour ozone NAAQS is demonstrated in an area when the expected number of days per calendar year with maximum hourly average ozone concentrations above 0.12 ppm is equal to or less than one. 40 CFR 50.9. The average number of days is calculated for a three-year period. 40 CFR part 50, Appendix H and Laxton memo. The 1994–1996 period is used to demonstrate attainment by November 15, 1996.

Table 2 lists the 3-year average number of days over the 1-hour ozone standard at each SLAMS monitoring site in the Phoenix metropolitan area for the period 1994 to 1996 and each monitor's design value for that period.[7] Design values are calculated following the procedures in the Laxton memo. A complete listing of the ozone exceedances at each monitor as well as EPA's calculations of the design values can be found in the TSD.

TABLE 2.—AVERAGE NUMBER OF OZONE EXCEEDANCES DAYS PER YEAR IN THE PHOENIX METROPOLITAN AREA

[1994–1996]

Site	Number of days over the standard (1994–1996)	Average number of exceedance days per year	Site design value (PPM)
South Phoenix	1	0.3	0.110
West Phoenix	0	0.0	0.110
Mesa	4	1.3	0.126
North Phoenix	4	1.3	0.125
Glendale	0	0	0.109
Pinnacle Peak	1	0.3	0.119
Central Phoenix	0	0	0.113
South Scottsdale	1	0.3	0.121

As can be seen from Table 2, two monitoring sites (Mesa and North Phoenix) have averaged more than 1 exceedance day per year in the 1994–1996 period. EPA is, therefore, proposing to find that the Phoenix metropolitan area did not attain the 1-hour ozone NAAQS by the statutory deadline for moderate area of November 15, 1996.

EPA is also proposing that the appropriate reclassification of the area is to serious. Section 181(b)(2) requires the area to be reclassified to the higher of the next higher classification or the

[7] EPA does not have compete 1994 and 1995 data from the SPM sites and thus is not listing those sites in Table 2. However, based on the limited data available to the Agency, six SPM sites (Papago Park, Phoenix Supersite, Phoenix VEI, Falcon Field, Fountain Hills, and Salt River Pima) averaged more than one ozone exceedance per year in the 1994–1996 period. Thus, the limited SPM data EPA does have confirm its proposed determination that the Phoenix area failed to attain the 1-hour ozone standard by November 15, 1996.

classification appropriate to the design value at the time of the nonattainment finding. The next highest classification for Phoenix is serious. The other potential classification is severe. Based on the design value calculated using data solely from the SLAMS/NAMS network, the area's design value is 0.126 ppm. Using the limited data set from the SPMs, the area's maximum-possible design value is 0.132 ppm. Both of these design values are well below the range required for a severe classification, that is 0.180 to 0.280 ppm.

C. SIP Requirements for Serious Ozone Areas

Under section 181(a)(1) of the Act, the attainment deadline for moderate area ozone nonattainment areas reclassified to serious under section 181(b)(2) will be as expeditiously as practicable but no later than November 15, 1999. Under section 182(i), these reclassified areas are required to submit SIP revisions addressing the serious area requirements for the 1-hour ozone NAAQS in section 182(c). Section 182(i) further provides that the Administrator may adjust the statutory schedules for submittal of these SIP revisions. Accordingly, EPA is exercising this authority to require submittal of the serious area SIP revisions no later than 12 months from the effective date of the area's reclassification. EPA believes that a 12 months schedule is appropriate because attainment date for serious areas, November 15, 1999, is little more than 2 years away and the State will need to expedite adoption and implementation of controls to meet that deadline. EPA is requesting comments on this schedule.

Under section 182(c), the requirements for serious ozone nonattainment areas include, but are not limited to, the following: (1) Attainment and reasonable further progress demonstrations; (2) an enhanced vehicle inspection and maintenance program; (3) clean-fuel vehicle programs; (4) a 50 ton-per-year major source threshold; (5) more stringent new source review requirements; (6) an enhanced monitoring program; and (7) contingency provisions.

EPA has issued a ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' that sets forth the Agency's preliminary views on how it will act on SIPs submitted under Title I of the Act. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

EPA has recently promulgated an 8-hour ozone standard (62 FR 38856, July 18, 1997). In order to facilitate the transition from the 1-hour to the 8-hour NAAQS, EPA may issue additional guidance to assist states in meeting the serious area requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future action. Each finding of failure to attain or request for an extension of an attainment date shall be considered separately and shall be based on the factual situation of the area under consideration and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order (E.O.) 12866

Under E.O. 12866, (58 FR 51735, October 4, 1993), EPA is required to determine whether today's proposal is a ''significant regulatory action'' within the meaning of the E.O., and therefore should be subject to OMB review, economic analysis, and the requirements of the E.O. *See* E.O. 12866, sec. 6(a)(3). The E.O. defines, in sec. 3(f), a ''significant regulatory action'' as a regulatory action that is likely to result in a rule that may meet at least one of four criteria identified in section 3(f), including,

(1) 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;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that the finding of failure to attain proposed today, as well as the establishment of SIP submittal schedules resulting from a bump-up, would result in none of the effects identified in E.O. 12866 sec. 3(f). Under section 181(b)(2) of the Act, findings of failure to attain are based upon air quality considerations, and reclassifications must occur by operation of law in light of certain air quality conditions. These findings 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. The same is true of the determination not to grant a one-year extension, in light of the fact that this determination is also based in part on air quality values. Similarly, the establishment of new SIP submittal schedules merely establishes the dates by which SIPs must be submitted, and does not adversely affect entities.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. Section 601 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. sections 603 and 604. Alternatively, EPA may certify 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 government entities with jurisdiction over populations of less than 50,000.

A finding of failure to attain (and the consequent reclassification by operation of law of the nonattainment area) under section 181(b)(2) of the Act, a denial of a one-year extension request, and the establishment of a SIP submittal schedule for a reclassified area, do not, in-and-of-themselves, directly impose any new requirements on small entities. *See Mid-Tex Electric Cooperative, Inc.* v. *FERC*, 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to the requirements of the rule). Instead, this rulemaking simply proposes to make a factual determination and to establish a schedule to require States to submit SIP revisions, and does not propose to directly regulate any entities. Therefore, pursuant to 5 U.S.C. 605(b), EPA certifies that today's proposed action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, when EPA promulgates ''any general notice of proposed rulemaking that is likely to result in promulgation

of any rule that includes any Federal mandate that may result in the expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more'' in any one year. A ''Federal mandate'' is defined, under section 101 of UMRA, as a provision that ''would impose an enforceable duty'' upon the private sector or State, local, or tribal governments'', with certain exceptions not here relevant. Under sec. 203 of UMRA, EPA must develop a small government agency plan before EPA ''establish[es] any regulatory requirements that might significantly or uniquely affect small governments''. Under section 204 of UMRA, EPA is required to develop a process to facilitate input by elected officers of State, local, and tribal governments for EPA's ''regulatory proposals'' that contain significant Federal intergovernmental mandates. Under section 205 of UMRA, before EPA promulgates ''any rule for which a written statement is required under [UMRA sec.] 202'', EPA must identify and consider a reasonable number of regulatory alternatives and either adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, or explain why a different alternative was selected.

Sections 202, 204, and 205 of UMRA do not apply to today's action because the proposed factual determination that Phoenix failed to reach attainment does not, in-and-of-itself, constitute a Federal mandate because it does not impose an enforceable duty on any entity. Although the establishment of a SIP submission schedule may impose such a duty on the State, this requirement merely establishes due dates, does not set out any requirements not otherwise already present, and thus cannot be considered to cost $100 million or more. Finally, section 203 of UMRA does not apply to today's action because the regulatory requirements proposed today—the SIP submittal schedule—affect only the State of Arizona, which is not a small government under UMRA.

D. Rule vs. Adjudication

It should be noted that each of the three administrative requirements described above—E.O. 12866, the Regulatory Flexibility Act, and UMRA—apply only with respect to agency actions that fall into the category of ''rules'', as defined under those provisions or under the Administrative Procedures Act. E.O. 12866 sec. 3 (d)–(e); Regulatory Flexibility Act, 5 U.S.C. sec. 603(a), 601(2); Unfunded Mandates Reform Act, secs. 202–205, 421. EPA is considering the possibility that today's action, to the extent it consists of a determination that the Phoenix area failed to attain the ozone NAAQS as of the end of 1996, might not be considered a ''rule'' as defined under these provisions, and instead might be considered an informal adjudication. The basis for this distinction could be that today's action constitutes a specific factual determination applicable only to the area in question, based on pre-existing facts. Under these circumstances, the administrative requirements discussed above might not apply. However, EPA is taking this approach under consideration, it is not today proposing this approach.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. sections 7401–7671q.

Dated: August 25, 1997.

Felicia Marcus,

Regional Administrator.

[FR Doc. 97–23234 Filed 8–29–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–002–BU; FRL–5886–6]

Clean Air Act Reclassification; California-Santa Barbara Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to determine that the Santa Barbara moderate ozone nonattainment area has not attained the 1-hour ozone national ambient air quality standard (NAAQS) by the Clean Air Act (CAA) mandated attainment date for moderate nonattainment areas, November 15, 1996. The proposed determination is based on EPA's review of monitored air quality data for compliance with the 1-hour ozone NAAQS. If EPA takes final action on the determination as proposed, the Santa Barbara ozone nonattainment area will be reclassified by operation of law as a serious nonattainment area. The effect of such a reclassification would be to continue progress toward attainment of the 1-hour ozone NAAQS through development of a new State implementation plan (SIP) addressing attainment of the standard by November 15, 1999.

DATES: Comments on this proposal must be received in writing by October 2, 1997. Comments should be addressed to the Region 9 office under **ADDRESSES**.

ADDRESSES: Copies of EPA's draft technical support document (TSD) for this rulemaking and EPA's policies governing attainment findings and extension requests are contained in the docket for this rulemaking. A copy of this notice and the TSD are also available in the air programs section of EPA Region 9's website, http://www.epa.gov/region09. The docket is available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 9, Office of Air Planning, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. (415) 744–1248;

California Air Resources Board; 2020 L Street; Sacramento, California; and

Santa Barbara Air Pollution Control District; 26 Castilian Drive B–23; Goleta, California.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. (415) 744–1288.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation and Classifications

The Clean Air Act Amendments of 1990 (CAA) were enacted on November 15, 1990. Under section 107(d)(1)(C) of the CAA, each ozone area designated nonattainment for the 1-hour ozone NAAQS prior to enactment of the 1990 Amendments, such as the Santa Barbara nonattainment area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments.[1] Under section 181(a) of the Act, each ozone area designated nonattainment under section 107(d) was also classified by operation of law as ''marginal,'' ''moderate,'' ''serious,'' ''severe,'' or ''extreme'' depending on the severity of the area's air quality problem. Ozone

[1] On July 18, 1997 (62 FR 38856), PA revised the ozone NAAQS to establish a 8-hour standard; however, in order to ensure an effective transition to the new 8-hour standard, EPA also retained the 1-hour NAAQS for an area until such time as it determines that the area meets the 1-hour standard. See revised 40 CFR 50.9 at 62 FR 38894. As a result of retaining the 1-hour standard, CAA part D, subpart 2 *Additional Provisions for Ozone Nonattainment Areas,* including the reclassification provisions of section 181(b), remain applicable to areas that are not attaining the 1-hour standard. Unless otherwise indicated, all references in this notice are to the 1-hour ozone NAAQS.