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]

BILLING CODE 6560–50–P

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.

nonattainment areas with design values between 0.138 and 0.160 parts per million (ppm), such as the Santa Barbara area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56694 (November 6, 1991). The Santa Barbara nonattainment area comprises the entire County of Santa Barbara. See 40 CFR 81.305.

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)[2] 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 186(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.[3] Consequently, EPA will determine whether the Santa Barbara 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.[4] 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.[5]

II. Proposal in Regard to the Santa Barbara Ozone Nonattainment Area

A. Current Air Quality

The Santa Barbara County Air Pollution Control District (SBCAPCD) and the California Air Resources Board (CARB) have worked hard to improve the County's air quality. The early introduction of cleaner burning gasoline and the strictest vehicle emission standards in the country, reflect CARB's leadership on air quality issues. In addition, SBCAPCD has been recognized for it's innovative approaches toward clean air. For its efforts, SBCAPCD received the 1996 Presidential Award for Sustainable Development and the 1996 Governor's Environmental and Economic Leadership Award.

While CARB and SBCAPCD continue to make progress in addressing the ozone problem, more still needs to be done. EPA will work with the State, District, local communities, business and environmental interests to develop additional approaches to improving Santa Barbara County's air quality.

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.

The SBCAPCD and CARB operate an ozone monitoring network in Santa Barbara County which consists of six ozone monitoring stations designated as State or Local Air Monitoring Stations (SLAMS). In addition to its SLAMS network the SBCAPCD also oversees the operation of a number of special purpose monitors (SPMs). These SPMs are operated independently by certain permitted stationary sources in the county but all data collected at these SPMs are validated and audited by a SBCAPCD contractor. All data produced by these SPMs are submitted to the EPA's Aerometric Information Retrieval System—Air Quality Subsystem (AIRS–AQS) database. While these SPMs are not part of the county's SLAMS network, data from these sites are used to augment the data from the SLAMS network.

The following table lists the 3-year average number of days over the 1-hour ozone standard at each SLAMS/SPM monitoring site in the Santa Barbara area for the period 1994 to 1996 and each monitor's design value for that period. 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.

[2] Under section 181(a)(5) of the CAA, if a state does not have the clean data necessary to show attainment of the NAAQS, it may apply for, and EPA may issue, up to two one-year attainment date extensions 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. See memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, EPA, to Regional Air Office Directors, entitled ''Procedures for Processing Bump Ups and Extensions for Marginal Ozone Nonattainment Areas,'' February 3, 1994 (Berry memorandum). The State has not applied for an extension for the Santa Barbara area and, as discussed below, the area does not meet the second statutory criterion for such an extension.

[3] See generally 57 FR 13506 (April 16, 1992) and 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 reclassification are made pursuant to the same Clean Air Act requirements in section 181(b)(2).

[4] 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.

[5] See memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations,'' June 18, 1990.

AVERAGE NUMBER OF OZONE EXCEEDANCE DAYS PER YEAR IN THE SANTA BARBARA AREA

[1994–1996]

Site	Number of days over the standard (1994–1996)	Average number of exceedance days per year	Site design value (PPM)
El Capitan St (SLAMS)	2	0.7	0.119
Goleta (SLAMS)	2	0.7	0.119
Gaviota West (SPM)	1	0.3	0.110
Gaviota East (SPM)	1	0.3	0.111
Gaviota GTC B (SPM)	1	0.3	0.103
Gaviota GTC C (SPM)	4	1.3	0.125
Carpinteria (SPM)	4	1.3	0.128
Capitan LFC #1 (SPM)	8	2.7	0.130

As can be seen from preceding table, three SPM monitoring sites (Gaviota GTC C, Carpinteria, and Capitan LFC #1) have averaged more than 1 exceedance day per year in the 1994–1996 period. EPA is, therefore, proposing to find that the Santa Barbara area did not attain the 1-hour ozone NAAQS by the November 15, 1996, statutory deadline for a moderate area.

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 classification appropriate to the design value at the time of the nonattainment finding. The next highest classification for Santa Barbara is serious. The other potential classification is severe. Based on the design value calculated using data from the SLAMS/SPM network, the area's design value is 0.130 ppm. This design value is well below the range required for a severe classification, that is 0.180 to 0.280 ppm.

In an August 19, 1997 letter, SBCAPCD requested that EPA consider applying the reclassification to only the South County[6] portion of Santa Barbara nonattainment area. Monitoring data from 1990–1996 indicate that the North County[7] portion of the nonattainment area is in compliance with the existing 1-hour ozone standard. These two areas are separated by the Santa Ynez Mountains. EPA is proposing to reclassify the entire Santa Barbara nonattainment area. However, EPA is requesting comment on the technical rationale for only reclassifying the South County portion of the nonattainment area. The technical rationale should include information on North County's contribution to the South County's air quality. In addition, EPA is requesting information on the current status of and future outlook for the North County's air quality in relation to meeting the new 8-hour ozone standard.

B. 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 comment on the proposed 12 month 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

[6] The SBCAPCD is recommending the following boundaries for the South County portion of the nonattainment area: Beginning at the Pacific Ocean outfall of Jaluma Creek and running east and north along Jaluma Creek to a point of intersection with the west boundary of the San Julian Land Grant; then south along the San Julian Land Grant boundary to its southwest corner; then east along the south boundary of the San Julian Grant to the northeast corner of partial Section 20, T. 5 N, R. 32 W, San Bernardino Base and West; then south and east along the boundary of the Las Cruces Land Grant to the southwest corner of partial Section 13, T. 5 N, R. 32 W; then northeast along the Las Cruces Land Grant boundary; then east along the north boundaries of Section 13, T. 5 N, R. 32 W, and Sections 18, 17, 16, 15, 14, 13, T. 5 N, R. 31 W, and Sections 18, 17, 16, 15, 14, 13, T. 5 N, R. 30 W, and Sections 18, 17, 16, 15, T. 5 N, R. 29 W; then south along the east boundary of Section 15, T. 5 N, R 29 W; then east along the north boundaries of Sections 23 and 24, T. 5 N, R. 29 W, and Sections 19, 20, 21, 22, 23, T. 5 N, R. 28 W, and Sections 19 and 20, T. 5 N, R. 27 W; then south along the east boundary of Section 20, T. 5 N, R. 27 W, then east along the north boundaries of Sections 28, 27, 26, 25, T. 5 N, R. 27 W, and Section 30 T. 5 N, R. 26 W; then south along the east boundary of Section 30, T. 5 N, R. 26 W; then east along the north boundaries of Sections 32, 33, 34, T. 5 N, R. 26 W; then south along the east boundary of Section 35, T. 5 N, R. 26 W to the township line common to T. 4 N and T. 5 N; then east along this township line to the Santa Barbara-Ventura County boundary; State waters offshore of that portion of the Santa Barbara County lying south of the latitude of the mouth of the Jalama Creek and those areas of the Outer Continental Shelf waters for which the District has been designated the corresponding onshore area by the Environmental Protection Agency.

[7] SBCAPCD is recommending that the North County boundary be the remainder of Santa Barbara County and corresponding State waters located offshore not included in the previous footnote describing the South County boundary.

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, section 6(a)(3). The E.O. defines, in section 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 reclassification, would result in none of the effects identified in E.O. 12866, section 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. 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. 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 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, 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), Public Law 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 Santa Barbara County 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 Santa Barbara County, 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 Santa Barbara County 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, National parks, Ozone, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 25, 1997.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 97–23235 Filed 8–29–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[TX–89–1–7356, FRL–5885–6]

Clean Air Act Reclassification, Texas; Dallas/Fort Worth Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA has determined that the Dallas/Fort Worth (DFW), Texas, moderate ozone nonattainment area has not attained the one-hour ozone National Ambient Air Quality Standard (NAAQS) by the November 15, 1996, Clean Air Act (the Act) mandated attainment date for moderate ozone nonattainment areas. The proposed determination is based on EPA's review of monitored air quality data for compliance with the one-hour ozone NAAQS. If EPA takes final action on the determination as proposed, the Dallas/Fort Worth ozone nonattainment area will be reclassified by operation of law as a serious nonattainment area. The intended effect of such a reclassification would be to aid in ensuring the attainment of the NAAQS for ozone and allow the State additional time to submit a revised State Implementation Plan (SIP) to reach attainment of the one-hour ozone NAAQS.

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

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Regional Office listed below. Copies of the State ozone air quality monitoring data and EPA policy concerning attainment findings are contained in the docket for this rulemaking. The docket is available for inspection during normal business hours at the following locations:

Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: Mr. Kurt Sonderman, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas, 75202, telephone (214) 665–7205.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements and EPA Actions Concerning Designation and Classifications

Under section 107(d)(1)(C) of the Act, each ozone area designated nonattainment for the one-hour ozone NAAQS prior to enactment of the 1990 Amendments, such as the Dallas/Fort Worth area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. 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 Dallas/Fort Worth 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 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 Act.

B. Reclassification to Serious

The EPA has the responsibility, pursuant to section 181(b)(2)(A) of the Act, 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) of the Act, 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 182(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 one-hour ozone NAAQS is 0.12 ppm, not to be exceeded on average more than one day per year over any three year period. See 40 CFR section 50.9 and 40 CFR part 50, Appendix H. The EPA makes attainment determinations for ozone nonattainment areas using the most recently available, quality-assured air quality data covering the three-year period up to and including the attainment date. The EPA has determined that the Dallas/Fort Worth area's air quality has not 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.

Table 1 lists the three-year average number of days over the one-hour ozone standard at each State and Local Air Monitoring Stations/National Air Monitoring Stations (SLAMS/NAMS) monitoring site in the Dallas/Fort Worth metropolitan area for the period 1994 through 1996 and each monitor's design value for that period. 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 docket file.