

Unfunded Mandates Reform Act

The Unfunded mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630m Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C, it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist will be available for inspection and copying in the docket to be maintained at the address listed in **ADDRESSES**.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Proposed Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for 33 CFR Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g) 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new § 165.1120 is added to read as follows:

§ 165.1120 Security Zone: San Diego, CA.

(a) Location. The following area is a security zone: the waters of San Diego Bay, enclosed by lines connecting the following points: Beginning at 32°40'30.0" N, 117°10'03.0" W (Point A); thence running northeasterly to 32°40'54.0" N, 117°09'35.5" W (Point B); thence running northeasterly to 32°40'55.0" N, 117°09'27.0" W (Point C); thence running southeasterly to 32°40'43.0" N, 117°09'09.0" W (Point D); thence running southerly to 32°40'39.0" N, 117°09'08.0" (Point E); thence running southwesterly to 32°40'30.0" N, 117°09'12.9" W (Point F); thence running a short distance to 32°40'29.0" N, 117°09'14.0" W (Point G); thence running southwesterly to 32°40'26.0" N, 117°09'17.0" W (Point H); thence running northwesterly to the shoreline to 32°40'31.0" N, 117°09'22.5" W (Point I).

(b) In accordance with the general regulations in §165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port or the Commanding Officer, Naval Base, San Diego.

(c) The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the U.S. Navy.

Dated: May 22, 2001.

E.R. Riutta,

Vice Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–034–FIN; FRL–69964]

Clean Air Act Redesignation and Reclassification, Searles Valley Nonattainment Area; Designation of Coso Junction, Indian Wells Valley, and Trona Nonattainment Areas; Reclassification of Coso Junction and Indian Wells Valley Nonattainment Areas; California; Particulate Matter of 10 Microns or Less (PM–10)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to change the boundaries of the Searles Valley, California moderate PM–10 nonattainment areas (NA) by dividing that area into three separate NAs: Coso Junction, Indian Wells Valley, and Trona. Because air quality violations or inadequate monitoring data, EPA is also proposing to find that the proposed Coso Junction and Indian Wells Valley NAs have not attained the 24-hour and annual PM–10 national ambient air quality standards (NAAQS) by the Clean Air Act (CAA) mandated attainment date for moderate nonattainment areas. EPA is further proposing to find that the proposed Trona NA has attained the 24-hour and annual NAAQS.

If EPA takes final action on this proposal, the Searles Valley NA would be split into three new NAs, and the Coso Junction and Indian Wells Valley NAs would be reclassified by operation of law as serious PM–10 NAs under section 188(b)(2)(A) of the CAA. The classification of the proposed Trona PM–10 NA would remain moderate.

DATES: Comments on this proposed action must be received in writing by August 13, 2001.

ADDRESSES: Comments should be addressed to John Ungvarsky, U.S. Environmental Protection Agency, Region 9, Air Division, Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, U.S. Environmental Protection Agency, Region 9, Air Division, Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1286, ungvarsky.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The NAAQS are safety thresholds for certain ambient air pollutants set by

EPA to protect public health and welfare. PM-10 is among the ambient air pollutants for which EPA has established a health-based standard. PM-10 causes adverse health effects by penetrating deep in the lung, aggravating the cardiopulmonary system. Children, the elderly, and people with asthma and heart conditions are the most vulnerable.

On November 15, 1990, the date of enactment of the 1990 Clean Air Act Amendments, PM-10 areas with PM-10 levels exceeding health standards and 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 classification were codified in 40 CFR part 81 in a **Federal Register** notice published on November 6, 1991 (56 FR 56694). The Searles Valley planning area was designated nonattainment and classified as moderate. See 40 CFR 81.305.

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 by no later than December 31, 1994. Pursuant to section 189(a)(2), those SIP revisions were to be submitted to EPA by November 15, 1991.

Situated at the southeastern end of the Sierra Nevada Mountains, the Searles Valley NA includes portions of three counties (i.e., Inyo, Kern, and San Bernardino) with its boundaries defined by United States Geological Survey (USGS) Hydrologic Unit #18090205, an area of approximately 2000 square miles. 40 CFR 81.305.

Because of the nature of the PM-10 exceedances and the local jurisdictional boundaries within the NA, the California Air Resources Board (CARB) has historically treated the Searles Valley NA as three separate planning subregions. When the original moderate area SIP was developed in 1991, the PM-10 exceedances that formed the basis for the planning strategies were determined to be caused by local sources in each of the subregions.¹

¹ "PM-10 State Implementation Plan for the Searles Valley Planning Area, Draft Final," November 1991, pages 2-7.

County boundaries have also played a major role in the apportionment of planning responsibilities and development of subregions within the Searles Valley NA. The Inyo County portion of the NA is under the jurisdiction of the Great Basin Air Pollution Control District (APCD) and is referred to as the Coso Junction subregion. The Kern County portion is under the jurisdiction of the Kern County APCD and is referred to as the Indian Wells Valley subregion.² The San Bernardino County portion is under the jurisdiction of the Mojave Desert Air Quality Management District (AQMD) and is referred to as the Trona subregion.

In October 1993, CARB submitted to EPA a moderate area SIP jointly developed by the Great Basin Unified APCD, Kern County APCD, and Mojave Desert AQMD. The affected districts asserted, and CARB concurred, that three distinct, localized and independent PM-10 problems existed in the Searles Valley NA.³ To support this division, CARB explained that the hydrologic zone that defines the boundaries of the NA actually encompasses three separate valleys. CARB indicated that the valleys are distinct from one another and do not appear to share the same PM-10 exceedances and stated that localized strategies can be justified on the basis of geography and topography. See Boyd letter.⁴

Although CARB has historically treated the Searles Valley NA as three separate planning areas, they did not officially request the area be divided into three NAs until very recently.

II. Rationale for Establishing Coso Junction, Indian Wells Valley, and Trona as new Nonattainment Areas

A. CARB's Request

On May 4, 2001, CARB submitted to EPA a request under CAA section 107(d)(3)(D) to revise the boundaries for the Searles Valley NA by dividing the area into three separate PM-10 nonattainment areas, Coso Junction,

² Prior to 1997, this area was referred to as the China Lake subregion.

³ Letter from James D. Boyd, Executive Officer, CARB, to Felicia Marcus, Regional Administrator, EPA Region IX, dated October 28, 1993 (Boyd letter).

⁴ Subsequent to the October 1993 submittal and in further support of the Districts' and CARB's assertion that the PM-10 problems in the Searles Valley nonattainment area are distinct, on July 2, 1996, CARB submitted to EPA a redesignation request and maintenance plan for the Trona subregion, and on July 28, 1997, CARB submitted to EPA a redesignation request and maintenance plan for the Indian Wells Valley subregion. EPA is not acting on these submittals in today's notice.

Indian Wells Valley, and Trona, to be separated along the Inyo, Kern, and San Bernardino county lines within the Searles Valley NA. Together, the three proposed NAs would cover the same geographic area as the existing Searles Valley PM-10 NA.⁵

Under section 107(d)(3)(D), the Governor of any State, on the Governor's own motion, is authorized to submit to the Administrator a revised designation⁶ of any nonattainment area or portions thereof within the State. In determining whether to approve or deny a State's request for a revision to the designation of an area under section 107(d)(3)(D), EPA uses the same factors Congress directed EPA to consider when the Agency initiates a revision to a designation of an area on its own motion under section 107(d)(3)(A). These factors include "air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate."

B. Air Quality Data and Related Considerations

As discussed below, air quality data for the Searles Valley NA and analysis of wind patterns indicate that the recorded exceedances of the 24-hour PM-10 NAAQS during the 1992 through 2000⁷ time frame in the Coso Junction and Indian Wells Valley subregions are not the result of transport between the subregions in the NA area.

1. Coso Junction

From April 1993 through May 1996, the Great Basin Unified APCD conducted a study of PM-10 transport from Owens Valley.⁸ The study showed that wind blown dust from the Owens Valley PM-10 nonattainment area, specifically emissions from the Owens (dry) Lake, contributed to the monitored exceedances at Coso Junction. The study documented that when exceedances occurred in Coso Junction, the winds were from the north. This factor alone eliminates the possibility of sources from Indian Wells Valley and Trona

⁵ Letter from Michael Kenny, Executive Officer, CARB, to Laura Yoshii, Acting Regional Administrator, EPA Region IX, dated May 4, 2001 (Kenny letter).

⁶ Boundary changes are an inherent part of a designation or redesignation of an area under the CAA. See CAA section 107(d)(1)(B)(ii).

⁷ Data for the 1992-2000 period is provided in IV.B as support for EPA's proposed division of the Searles Valley NA into three separate NAs. For purposes of the proposed findings discussed in sections IV and V of this notice, EPA is relying on data from the 1992-1994 time frame.

⁸ See letter from Duane Ono, Great Basin Unified APCD, to John Kennedy, EPA Region IX, dated March 26, 2001 (Ono letter) enclosing Owens Study.

contributing to the exceedances in Coso Junction since these subregions are located to the south of Coso Junction. Since the completion of the transport study, two exceedances occurred in the Coso Junction subregion. The Great Basin Unified APCD has indicated that at least one of these exceedances was attributed to wind blown dust from the Owens Valley NA.⁹

2. Indian Wells Valley

In April 1995 and March 1998, the Indian Wells Valley subregion exceeded the 24-hour PM-10 NAAQS. The 1995 exceedance was captured as part of the Great Basin Unified APCD's transport study and, like the same day exceedance at Coso Junction, appears to have been caused when winds were from the north, thus implicating Owens Lake in the adjacent Owens Valley NA, and not Trona sources, as a likely contributor to the exceedance. See Ono letter. The cause of the 1998 exceedance (165 ug/m³) is currently being analyzed by CARB. In this instance, the exceedance occurred when winds were from the south, which eliminates the possibility of sources in Trono or Coso Junction contributing to the exceedance. In addition, the corresponding same-day PM-10 values in Coso Junction (21 ug/m³) and Trona (24 ug/m³) were well below the 24-hour PM-10 NAAQS, an indication that the sources causing the exceedance in Indian Wells Valley did not impact PM-10 levels in the Coso Junction or Trono subregions.

3. Trona

The Trona subregion has not recorded an exceedance of the 24-hour PM-10 NAAQS since 1990.

C. Planning and Control Considerations

Each of the subregions in the Searles Valley NA is associated with a separate valley in the NA. The corresponding topography of the valleys limits the transport of PM-10 emissions between the Searles Valley subregions. See Kenny letter. With the exception of transport of PM-10 from Owens Lake into Searles Valley, as described above, there is no indication or record of sources in any one subregion impacting PM-10 levels in an adjacent subregion.

The proposed Coso Junction NA corresponds with the current Coso Junction subregion planning area and the Rose Valley. The Rose Valley is bounded by the Coso Range to the east and south. The Sierra Nevada Range bounds the Valley to the west, and the intersection of the two ranges makes up the northern boundary.

The proposed Indian Wells Valley NA corresponds with the current Indian Wells Valley subregion planning area and the Indian Wells Valley. This valley is bounded by the Argus Range to the east, the Sierra Nevada Range to the west. The El Paso Mountains bound the southern area, and the Coso Range closes off the northern end.

The proposed Trona NA corresponds with the Trona subregion planning area and the Searles Valley, which contains the Searles (dry) Lake. This valley is bounded by the Slate Range to the east and Argus Range to the west. These two ranges join together at the north and south to fully encompass the Searles (dry) Lake. The Mojave Desert AQMD is primarily responsible for this subregion, although a small portion of Inyo County, which is under the jurisdiction of Great Basin Unified APCD, falls within the proposed Trona NA.

These valleys are distinct from one another and do not share the same PM-10 exceedances. As a result, separate NAs with localized strategies on the basis of the area's geography and topography are appropriate.

In addition, as stated earlier, CARB's moderate area SIP incorporates an attainment strategy and demonstration for each of the respective subregions corresponding to the jurisdictions of the three local air districts. Subsequent SIP revisions for the Searles Valley NA have been prepared and adopted by the responsible air district in each subregion, each reflecting the unique contributors to nonattainment under its jurisdiction. These administrative and planning considerations further support CARB's request that the Searles Valley NA be divided into three separate NAs.

Based on the State's request and consideration of the supporting factors described above, we are today proposing to change the boundaries for the Searles Valley NA by dividing the area into the Coso Junction, Indian Wells Valley and Trona NAs reflecting the historical subregional divisions that have been in place since the early 1990's.

III. Proposed Boundaries for the Proposed Coso Junction, Indian Wells Valley and Trona Nonattainment Areas

The proposed Coso Junction NA boundaries would consist of the portion of Inyo County contained within USGS Hydrologic Unit #18090205. The proposed Indian Wells Valley NA boundaries would include the portion of Kern County contained within USGS Hydrologic Unit #18090205. The proposed Trona NA boundaries would include the portion of the San Bernardino County contained within USGS Hydrologic Unit #18090205. The

combination of these three proposed NAs would comprise the same area included in the Searles Valley NA as set forth in 40 CFR 81.305.

IV. Proposed Findings of Attainment and Nonattainment

A. Clean Air Act Requirements

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. For the Searles Valley, the attainment date was December 31, 1994. Therefore, for purposes of the attainment finding, EPA must use monitoring data from 1992-1994. 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. 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 ug/m³. Attainment of the 24-hour standard is determined by calculating the expected number of exceedances of the 150 ug/m³ 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 are generally necessary to show attainment of the 24-hour and annual standards for PM-10.

The proposed findings pursuant to CAA sections 179(c) and 188(b)(2) for the proposed Coso, Indian Wells Valley and Trona NAs are discussed below and are based on air quality data for 1992-1994, the 3 years up to and including the attainment deadline year. In addition, more recent data support our proposal.¹⁰

B. Ambient Air Monitoring Data

As stated above, the 24-hour NAAQS is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 ug/m³ is equal to or less than one. In general, the number of expected exceedances at a site which samples every day is determined by recording the number of exceedances in each calendar year and then averaging them over the past three

⁹ See Ono letter.

¹⁰ See Table 3.

calendar years. For sites which do not sample every day, EPA requires the adjustment of observed exceedances to account for days not sampled. The procedures for making the adjustment are specified in 40 CFR part 50, appendix K.

In addition, an important consideration in making air quality determinations for both the 24-hour and annual standards is data completeness. 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. EPA requires pollutant data sets to be complete according to this definition in order for us to determine that an area is in attainment of the PM-10 NAAQS. For example, if an area samples for PM-10 on a one in six day sampling schedule, there would be 60-61 samples scheduled to be collected in a given calendar year or 15-16 samples in a calendar quarter. In order for a PM-10 data set to be deemed complete, an agency must collect 75 percent of the scheduled samples in a quarter. See 40 CFR part 50, appendix K.

EPA recognizes that data from some scheduled sampling days may be missing for any number of reasons, e.g. damaged filters (sample loss), miscalibrated equipment, or other equipment failure. 40 CFR part 50, appendix K specifies a minimum 75

percent data capture rate of required PM-10 samples, but states that "data not meeting these criteria may also suffice to show attainment, however, such exceptions will have to be approved by the Regional Administrator in accordance with established guidelines."

EPA has provided guidance on how and when the Agency can make attainment findings when the data capture rate is less than 75 percent per calendar quarter. See "Guideline on Exceptions to Data Requirements for Determining Attainment of Particulate Matter Standards," Office of Air Quality Planning and Standards, April 1987 (hereafter referred to as "data substitution policy"). There are minimum criteria that must be met in order for EPA to utilize this policy. For areas that have two or more years of monitoring data, there must be at least 50 percent of the required samples in each quarter and at least one of the years must indicate attainment based on monitored concentrations that meet the minimum 75 percent data capture requirement. The policy may also be used if only one year of every day sampling is available and the data capture rate exceeds 75 percent in each quarter.

In the case of the Searles Valley NA, there are three monitoring sites that need to be evaluated in our determination of the area's attainment status. In the 1992-1994 period, the

sites in Coso Junction and Indian Wells Valley have at least one year that did not meet the 75 percent data completeness criteria. Since none of the sites samples on an every day schedule, we need to evaluate whether they met the requirement of having at least 50 percent data capture for those quarters not meeting the 75 percent data capture requirement. The guidance document cited above allows for the substitution of missing data using monitored data from the same quarter in anyone of the years used to determine attainment. The maximum PM-10 value that was observed in that quarter over the attainment period may be substituted for missing scheduled sampling days, provided emissions and meteorology for these quarters are representative of the emissions and meteorology for the quarter in question.

In evaluating the data for the proposed Coso, Indian Wells Valley and Trona NAs, EPA considered the actual recorded PM-10 concentrations for 1992-1994, the sampling frequency of the monitors used in the PM-10 network, and the completeness of the data collected.

1. 24-hour Standard

Table 1 presents a summary of the data collected for the 24-hour standard in the Searles Valley NA during 1992-1994.

TABLE 1.—SUMMARY OF SEARLES VALLEY 24-HOUR PM-10 AIR QUALITY DATA 1992-1994 [NAAQS=50 micrograms per cubic meter (µg/m³)]

Site Name	Year	Maximum 24-hour concentration (µg/m³)	Number of observed exceedances	Number of estimated exceedances	Data 75 percent complete? Y/N
Coso Junction	1992	38	0	Cannot be determined	No.
	1993	254	2	8.4	Yes.
	1994	388	1	4.1	Yes.
Indian Wells (China Lake) ¹¹	1992	39	0	Cannot be determined	No.
	1993	50	0	Cannot be determined	No.
	1994	26	0	Cannot be determined	No.
Trona	1992	105	0	0	Yes.
	1993	79	0	0	Yes.
	1994	107	0	0	Yes.

Source: Aerometric Information Retrieval System/Air Quality Subsystem (AIRS/AQS).

Based on the air quality data presented above, EPA proposes to find that the proposed Coso NA did not attain the 24-hour PM-10 NAAQS during the 1992-1994 period.

¹¹ As stated previously in this notice, in 1997 the China Lake subregion was renamed Indian Wells Valley. However the monitoring site which represents this subregion is still called China Lake in EPA's AIRS/AQS database.

For the proposed Indian Wells Valley NA, data collection was inadequate and the data substitution policy cannot be used because the monitor did not collect at lasts 50 percent of the scheduled samples during certain quarters in the 1992-1994 period. As a result, EPA cannot make a finding of attainment of the proposed Indian Wells Valley NA for the 24-hour standard and must

propose instead to find that this area also failed to attain the 24-hour standard for the 1992-1994 period.

For the proposed Trona NA, EPA proposes to find that the area attained the 24-hour PM-10 NAAQS during the 1992-1994 period.

2. Annual Standard

The 1992–1994 annual average for each monitoring site is provided in Table 2.

TABLE 2.—ANNUAL AVERAGE PM-10 CONCENTRATION (µg/M³) FOR SEARLES VALLEY NONATTAINMENT AREA FOR 1992–1994
[NAAQS = 50µg/m³]

Site name and year	Annual average (µg/m ³)	Data 75 percent complete? Y/N	3 year annual average (µg/m ³)
Coso Junction:			
1992	*14	No
1993	28	Yes	*22
1994	23	Yes
Indian Wells (China Lake):			
1992	*21	No
1993	23	No	*20
1994	*17	No
Trona:			
1992	37	Yes
1993	37	Yes	34
1994	28	Yes

* Because the data set for the year is not complete, an accurate annual average that meets EPA regulatory requirements cannot be calculated. Furthermore, since the Coso Junction and Indian Wells Valley monitoring sites have quarters which do not meet the minimum 50 percent capture rate, EPA cannot utilize the data substitution policy. The number reported here is simply based on the available data.

Source: Aerometric Information Retrieval System/Air Quality Subsystem (AIRS/AQS)

The monitoring sites for the proposed Coso and Indian Wells Valley NAs did not meet the 75 percent data completeness requirement. Furthermore, some quarters of data at each site also did not meet the 50 percent minimum data capture requirement. Therefore, EPA's data substitution policy cannot be used and EPA must propose to find that the proposed Coso Junction and Indian Wells Valley NAs failed to attain the annual standard for the 1992–1994 period.

For the proposed Trona NA, EPA proposes to find that the area attained the annual standard during the 1992–1994 period.

3. Post-1994 Exceedances Support EPA's Proposed Action

Exceedances of the 24-hour NAAQS¹² occurring during the 1995 through 2000 time frame in the proposed Coso Junction and Indian Wells Valley NAs are listed in Table 3. No exceedances were recorded during the period in the proposed Trona NA.

¹² There were no recorded exceedances of the annual standard during the 1995–2000 period. However, as discussed in section IV.B.2, there are significant data gaps for both standards from 1992–1994 which are relevant to the attainment status of the area.

TABLE 3.—SEARLES VALLEY NA MONITORING SITES EXCEEDING THE 24-HOUR PM-10 NAAQS DURING 1995–2000
[NAAQS=150 µg/m³]

Site and Date of Exceedance	Exceedance (µg/m ³)
Coso Junction, Rest Area on Hwy 395:	
4/8/95	692
4/21/95	337
5/23/96	309
3/18/98	409
Coso Junction 10 miles east of Coso Junction:	
4/9/95	597
4/21/95	268
3/6/98	246
Indian Wells Valley ¹³ 100 Las Flores Ave, Ridge Crest:	
4/8/95	235
Indian Wells Valley, Powerline Road, China Lake:	
3/23/98	165

¹³ The Las Flores Avenue monitor was a special purpose monitor included in the Owens Lake transport study. It was sporadically operated during the 1993–1996 study, "Air Quality Impacts Downwind of Owens Lake," by the Great Basin Unified APCD, June 1997 (Owens Study). EPA's policy on the use of special purpose monitoring data is described in an EPA memorandum entitled "Agency Policy on the Use of Special Purpose Monitoring Data" from John Seitz, Director, Office of Air Quality Planning and Standards, to the Regional Air Directors, August 22, 1997.

V. Proposed Reclassifications and SIP Requirements for Serious Areas

Under CAA 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 notice in **Federal Register** identifying those areas that failed to attain the standard and the resulting reclassifications. Because the Searles Valley moderate NA has a statutory deadline of December 31, 1994, EPA is required to base its original determination of whether the area attained the PM-10 standards on data from 1992–1994. See section IV above. For this period, for both the 24-hour and annual standards, EPA is proposing to find that the proposed Coso Junction and Indian Wells Valley NAs did not attain. Because EPA is proposing to find that the proposed Trona NA attained the PM-10 standards, it would remain a moderate NA.¹⁴

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 implementation of best available

¹⁴ If EPA takes final action to create the Trona NA, the area would be redesignated to attainment upon approval by the Agency of a maintenance plan pursuant to CAA section 175A.

control measures (BACM)¹⁵ and a major source definition of 70 tons per year. The SIP must also, among other things, provide for attainment of the PM-10 NAAQS by December 31, 2001.¹⁶ See CAA sections 188 (c) (2) and 189 (b). EPA has provided specific guidance on developing serious area PM-10 SIP revisions. See 59 FR 41998 (August 16, 1994).

Data from the most recent three year period (1998-2000) indicates the proposed Coso Junction and Indian Wells Valley NAs exceeded the PM-10 24-hour NAAQs. The proposed Coso Junction NA recorded two exceedance in March, 1998, and the proposed Indian Wells Valley NA recorded an exceedance March, 1998. In their May 4, 2001 letter¹⁷ to EPA, CARB indicated that it is investigating whether the exceedance in Indian Wells Valley was caused by a natural event.¹⁸ Because of these exceedances, the proposed Coso Junction and Indian Wells Valley NAs do not qualify for redesignation at this time. In order for a nonattainment area to be redesignated to attainment, the area must have three years of clean data and meet the redesignation requirements of section 107 (b) (3) (E) of the CAA.¹⁹

VI. Summary of Today's Proposals

In today's action, EPA is proposing to divide the Searles Valley NA into three, newly created NAs: Coso Junction, Indian Wells Valley, and Trona. EPA is also proposing to find that the proposed Coso Junction and Indian Wells Valley NAs did not attain the 24-hour and annual PM-10 NAAQS.

VII. Request for Public Comment

The EPA is requesting comment on any or all aspects of today's proposals. As indicated at the outset of this notice, EPA will consider any comments received by August 13, 2001.

¹⁵ BACM must be implemented no later than four years from the date of reclassification.

¹⁶ If certain conditions are met, EPA may extend this attainment deadline to no later than December 31, 2006. CAA section 188 (e).

¹⁷ See footnote 5.

¹⁸ EPA's policy for an exceedance caused by a natural event is explained in a memorandum entitled "Areas Affected by PM-10 Natural Events" from Mary Nichols, Assistant Administrator for Air and Radiation, to the EPA Regional offices, May 30, 1996. The State is responsible for establishing a clear casual relationship between the exceedance and the natural event and submitting the documentation to EPA within 180 days of the exceedance, and, at a minimum, developing a Natural Events Action Plan within 18 months of the exceedances.

¹⁹ Memorandum from John Calcagni to Regional Office Air Directors, "Procedures for Processing Requests to Redesignate Areas to Attainment," September 4, 1992.

VIII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

Under section 188(b)(2) of the CAA, findings of failure to attain are based solely upon air quality considerations and the subsequent nonattainment area reclassification must occur by operation of law in light of those air quality conditions. These actions do not, in and of themselves, impose any new requirements on any section of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because these 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 proposed splitting of the Searles Valley NA into three new, separate NAs with a moderate classification will not impose any new requirements on any sectors of the economy because the area is already classified as moderate.

Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

These proposed actions do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) for the following reasons: (1) The proposed finding of failure to attain is a factual determination based on air quality considerations; (2) the resulting reclassification must occur by operation of law and will not impose any federal intergovernmental mandate; and (3) the proposed splitting of the Searles Valley NA into three, new and separate NAs with a moderate classification will not impose any new requirements on any sectors of the economy. For the same reason, this proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). For these same reasons, these proposed actions will not have substantial direct

effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). These proposed actions are also not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because they are not economically significant. Finally, for these same reasons, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing these proposed actions, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. These proposed actions do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401-7671q.

Dated: June 5, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94-102; FCC 01-175]

Wireless E911 Compatibility; Call Back Capability

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document solicits comment regarding the Commission's options with respect to providing public safety answering points (PSAPs) with the ability to call back to obtain further information from 911 calls made from