## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 300

**[REG–134923–07]**

**RIN 1545–BG88**

## User Fees Relating to Enrollment To Perform Actuarial Services; Hearing

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed rulemaking.

**SUMMARY:** This document cancels a public hearing on proposed regulations relating to user fees for the initial and renewed enrollment to become an enrolled actuary.

**DATES:** The public hearing, originally scheduled for November 26, 2007, at 10 a.m., is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Hurst of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), at *Richard.A.Hurst@irscounsel.treas.gov.*

**SUPPLEMENTARY INFORMATION:** A notice of public hearing that appeared in the **Federal Register** on Wednesday, October 31, 2007 (72 FR 61583), announced that a public hearing was scheduled for November 26, 2007, at 10 a.m., in room 3716, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is under sections 7 and 8 of the Internal Revenue Code.

The public comment period for these regulations expires on November 30, 2007. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, November 20, 2007, no one has requested to speak. Therefore, the public hearing scheduled for November 26, 2007, is cancelled.

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E7–22893 Filed 11–21–07; 8:45 am]

**BILLING CODE 4830–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

**[EPA–R09–2007–OAR–1109; FRL–8498–7]**

## Determination of Nonattainment and Reclassification of the Imperial County Nonattainment Area: 8-Hour Ozone

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to find that the Imperial County marginal 8-hour ozone nonattainment area has failed to attain the 8-hour ozone national ambient air quality standard (NAAQS or standard) by June 15, 2007, the attainment deadline set forth in the Clean Air Act (CAA) and Code of Federal Regulations (CFR) for marginal nonattainment areas. If EPA finalizes this finding, the Imperial County area will be reclassified, by operation of law, as a moderate 8-hour ozone nonattainment area. The moderate area attainment date for the Imperial County area would then be as expeditiously as practicable but no later than June 15, 2010. Once reclassified, California must submit State Implementation Plan (SIP) revisions that meet the 8-hour ozone nonattainment requirements for moderate areas as required by the CAA. In this action, EPA is also proposing the schedule for the State's submittal of the SIP revisions required for moderate areas once the area is reclassified.

**DATES:** Comments must be received on or before December 24, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–2007–OAR–1109 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: priselac.adrienne@epa.gov.*
3. *Fax:* 415–947–3579.
4. *Mail or deliver:* Adrienne Priselac (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the *www.regulations.gov* or e-mail. *www.regulations.gov* is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

**FOR FURTHER INFORMATION CONTACT:** Adrienne Priselac, EPA Region IX, (415) 972–3285, *priselac.adrienne@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA.

**Table of Contents**



## I. What is the background for this proposed action?

### *A. What are the National Ambient Air Quality Standards?*

The CAA requires EPA to establish a NAAQS for pollutants that ''may reasonably be anticipated to endanger public health and welfare'' and to develop a primary and secondary

standard for each NAAQS. The primary standard is designed to protect human health with an adequate margin of safety and the secondary standard is designed to protect public welfare and the environment. EPA has set NAAQS for six common air pollutants referred to as criteria pollutants: Carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. These standards present state and local governments with the air quality levels they must meet to comply with the CAA. Also, these standards allow the American people to assess whether or not the air quality in their communities is healthful.

*B. What is the standard for 8-hour ozone?*

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour ozone standard. Under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). (See 69 FR 23857 (April 30, 2004) for further information). Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50. Specifically, section 2.3 of 40 CFR part 50, Appendix I, ''Comparisons with the Primary and Secondary Ozone Standards'' states:

''The primary and secondary ozone ambient air quality standards are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. The number of significant figures in the level of the standard dictates the rounding convention for comparing the computed 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration with the level of the standard. The third decimal place of the computed value is rounded, with values equal to or greater than 5 rounding up. Thus, a computed 3-year average ozone concentration of 0.085 ppm is the smallest value that is greater than 0.08 ppm.''

The value of 0.085 ppm can also be expressed as 85 parts per billion (ppb).

*C. What is a SIP and how does it relate to the NAAQS for 8-hour ozone?*

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the NAAQS established by EPA. Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally-enforceable SIP. Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive. They may contain state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

*D. What is the Imperial County nonattainment area, and what is its current 8-hour ozone nonattainment classification?*

The Imperial County 8-hour ozone nonattainment area is located in the southeastern corner of California. It has borders with Mexico to the south, Arizona to the east, San Diego County to the west, and the Coachella Valley to the north. The local jurisdiction that is responsible for air pollution control is the Imperial County Air Pollution Control District (ICAPCD).

For areas subject to Subpart 2 of the CAA, such as the Imperial County nonattainment area, the maximum period for attainment runs from the effective date of designations and classifications for the 8-hour ozone NAAQS (69 FR 23858, April 30, 2004) and will be the same periods as provided in Table 1 of CAA Section 181(a): Marginal—3 years; Moderate—6 years; Serious—9 years, Severe—15 or 17 years; and Extreme—20 years (40 CFR 51.903(a)). The effective date of designations and classifications for the 8-hour ozone NAAQS was June 15, 2004 (69 FR 23951, April 30, 2004).

The Imperial County area was designated nonattainment for the 8-hour ozone standard on April 30, 2004, and classified ''marginal'' based on a 2001–2003 design value of 91 (ppb) with a maximum attainment date of June 15, 2007 (69 FR 23858). The design value of an area, which characterizes the severity of the air quality concern, is represented by the annual fourth-highest daily maximum 8-hour average ozone concentration measured at each monitor averaged over any three-year period.

*E. What are the CAA provisions regarding determinations of nonattainment and reclassifications?*

Section 181(b)(2) prescribes the process for making determinations upon failure of an ozone nonattainment area to attain by its attainment date, and for reclassification of an ozone nonattainment area. Section 181(b)(2)(A) of the Act requires that we determine, based on the area's design value (as of the attainment date), whether the area attained the ozone standard by that date. For marginal, moderate, and serious areas, if EPA finds that the nonattainment area has failed to attain the ozone standard by the applicable attainment date, the area is reclassified by operation of law to the higher of (1) the next higher classification for the area, or (2) the classification applicable to the area's design value as determined at the time of the required **Federal Register** notice. Section 181(b)(2)(B) requires EPA to publish in the **Federal Register** a notice identifying any area that has failed to attain by its attainment date and the resulting reclassification.

## II. What is EPA's evaluation of the Imperial County area's 8-hour ozone data?

We make attainment determinations for ozone nonattainment areas using available quality-assured air quality data. Within the Imperial County area, ground-level ozone is measured at 6 monitors throughout the County. In recent years, the El Centro and Westmorland monitors have measured some of the highest 8-hour average ozone concentrations in the Imperial County area. For example, the fourth-highest daily maximum readings for 2004, 2005, and 2006 at the El Centro monitor were 79, 86, and 91 ppb, respectively. The fourth-highest daily maximum readings for 2004, 2005, and 2006 at the Westmorland monitor were 79, 90, and 86 ppb, respectively. For the Imperial County ozone nonattainment area, the attainment determination is based on 2004–2006 air quality data. The area has a 2004–2006 design value of 85 ppb. Therefore, pursuant to section 181(b)(2) of the CAA, we find that the Imperial County area did not attain the 8-hour ozone NAAQS by the June 15, 2007, deadline for marginal areas.

TABLE 1.—IMPERIAL COUNTY AREA FOURTH HIGHEST 8-HOUR OZONE CONCENTRATIONS AND DESIGN VALUES (PPB)[1]

| Site | 4th highest daily max | | | Design value 3 year average (2004–2006) |
|---|---|---|---|---|
| | 2004 | 2005 | 2006 | |
| Calexico-Grant (06–025–0004) | 63 | 80 | 65 | 69 |
| Calexico-Ethel (06–025–0005) | 72 | 82 | 68 | 74 |
| Calexico-East (06–025–0006) | 74 | 77 | 78 | 76 |
| El Centro (06–025–1003) | 79 | 86 | 91 | 85 |
| Westmorland (06–025–4003) | 79 | 90 | 86 | 85 |
| Niland (06–025–4004) | 75 | 72 | 72 | 73 |

[1] Unlike the 1-hour ozone standard, design value calculations for the 8-hour ozone standard are based on a rolling three-year average of the annual 4th highest values (40 CFR Part 50, Appendix I).

Under Sections 172(a)(2)(C) and 181(a)(5) of the CAA, an area can qualify for up to two one-year extensions of its attainment date based on the number of exceedances in the attainment year and if the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan. For the 8-hour ozone standard, if an area's 4th highest daily 8-hour ozone average in the attainment year is 84 ppb or less (40 CFR 51.907), the area is eligible for the first of up to two one-year attainment date extensions. The attainment year is the year immediately preceding the nonattainment area's attainment date. For Imperial County the attainment year is 2006. In 2006, the area's 4th highest daily 8-hour ozone average value was 91 ppb. Based on this information, the Imperial County area currently does not qualify for a one-year extension of the attainment date.

Section 181(b)(2)(A) of the Act provides that, when we find that an area failed to attain by the applicable date, the area is reclassified by operation of law to the higher of (1) the next higher classification or (2) the classification applicable to the area's ozone design value at the time of the required notice under Section 181(b)(2)(B). Section 181(b)(2)(B) requires EPA to publish a notice in the **Federal Register** identifying the reclassification status of an area that has failed to attain the standard by its attainment date. The classification that would be applicable to the Imperial County area's ozone design value at the time of today's notice is ''marginal'' since the area's 2006 calculated design value, based on quality-assured ozone monitoring data from 2004–2006, is 85 ppb. By contrast, the next higher classification for the Imperial County area is ''moderate.'' Because ''moderate'' is a higher nonattainment classification than ''marginal'' under the statutory scheme, upon the effective date of a final rulemaking, the Imperial County area would be reclassified by operation of law as ''moderate,'' for failing to attain the standard by the marginal area applicable attainment date of June 15, 2007.

## III. What action is EPA proposing?

### *A. Determination of Nonattainment, Reclassification of Imperial County Nonattainment Area and New Attainment Date*

Pursuant to section 181(b)(2), EPA is proposing to find that the Imperial County area has failed to attain the 8-hour ozone NAAQS by the June 15, 2007, attainment deadline prescribed under the CAA for marginal ozone nonattainment areas. If EPA finalizes this finding and it takes effect, the Imperial County area will be reclassified by operation of law from marginal nonattainment to moderate nonattainment. Moderate areas are required to attain the standard ''as expeditiously as practicable,'' but no later than 6 years after designation, or June 15, 2010. The ''as expeditiously as practicable'' attainment date will be determined as part of the action on the required SIP submittal demonstrating attainment of the 8-hour ozone standard. EPA is proposing a schedule by which California will submit the SIP revisions necessary for the proposed reclassification to moderate nonattainment of the 8-hour ozone standard.

### *B. Proposed Date for Submitting a Revised SIP for the Imperial County Area*

EPA must address the schedule by which California is required to submit a revised SIP. When an area is reclassified, we have the authority under section 182(i) of the Act to adjust the Act's submittal deadlines for any new SIP revisions that are required as a result of the reclassification.

Pursuant to 40 CFR 51.908(d), for each nonattainment area, a state must provide for implementation of all control measures needed for attainment no later than the beginning of the ''attainment year ozone season.'' The ''attainment year ozone season'' is defined as the ozone season immediately preceding a nonattainment area's attainment date (40 CFR 51.900(g)). The ''ozone season'' in a given year for an ozone nonattainment area is defined as the ozone monitoring season shown for the state in 40 CFR Part 58, Appendix D, section 4.1, Table D–3 (40 CFR 51.900(n) and 71 FR 61236, October 17, 2006). The ozone monitoring season for all of California, including Imperial County, is the full calendar year, from January through December.

A moderate 8-hour ozone nonattainment area must attain the ozone NAAQS as expeditiously as practicable, but no later than June 15, 2010 (40 CFR 51.903). As such, the attainment year ozone season for Imperial County is the ozone season in calendar year 2009, which begins on January 1. EPA therefore proposes to require a revised SIP submittal for the Imperial County moderate nonattainment area as expeditiously as practicable, but no later than December 31, 2008.

A revised SIP must include the following moderate area requirements: (1) An attainment demonstration (40 CFR 51.908), (2) provisions for reasonably available control technology and reasonably available control measures (40 CFR 51.912), (3) reasonable further progress reductions in emissions (40 CFR 51.910), (4) contingency measures to be implemented in the event of failure to meet a milestone or attain the standard (CAA 172(c)(9)), and (5) $NO_X$ and VOC emission offsets of 1.15 to 1 for major source permits (40 CFR 51.165(a)). See also the requirements for moderate

ozone nonattainment areas set forth in CAA section 182(b).[1]

## IV. Proposed Action

Pursuant to CAA section 181(b)(2), EPA is proposing to find that the Imperial County marginal 8-hour ozone area has failed to attain the 8-hour ozone NAAQS by June 15, 2007. If EPA finalizes its proposal, the area will by operation of law be reclassified as a moderate 8-hour ozone nonattainment area. Pursuant to section 182(i) of the CAA EPA is also proposing the schedule for submittal of the SIP revision required for moderate areas once the area is reclassified. We propose to require that this SIP revision be submitted as expeditiously as practicable, but no later than December 31, 2008.

## V. Statutory and Executive Order Reviews

### *A. Executive Order 12866, Regulatory Planning and Review*

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO. The Agency has determined that the finding of nonattainment would result in none of the effects identified in the Executive Order. Under section 181(b)(2) of the CAA, determinations of nonattainment are based upon air quality considerations and the resulting reclassifications must occur by operation of law.

### *B. Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. This proposed action to reclassify the Imperial County area as a moderate ozone nonattainment area and to adjust applicable deadlines does not establish any new information collection burden. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this action on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards (see 13 CFR part 121); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Determinations of nonattainment and the resulting reclassification of nonattainment areas by operation of law under section 181(b)(2) of the CAA do not in and of themselves create any new requirements. Instead, this rulemaking only makes a factual determination, and does not directly regulate any entities. After considering the economic impacts of today's action on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

### *D. 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, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation as to why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This proposed action does not include a Federal mandate within the meaning of UMRA that may result in expenditures of $100 million or more in any one year by either State, local, or Tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of section 202 and 205 of the UMRA. Also, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and therefore, is not subject to the requirements of section 203. EPA believes, as discussed previously in this document, that the finding of nonattainment is a factual determination based upon air quality considerations and that the resulting reclassification of the area must occur by operation of law. Thus, EPA believes that the proposed finding does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

[1] A vehicle inspection and maintenance (I/M) program would normally be listed as a requirement for an ozone moderate or above nonattainment area. However, the Federal I/M Flexibility Amendments of 1995 determined that urbanized areas with populations less than 200,000 for 1990 are not mandated to participate in the I/M program (60 FR 48027, September 18, 1995).

*E. Executive Order 13132: Federalism*

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

This proposed rule does not have federalism implications. It 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. This action merely proposes to determine that the Imperial County area has not attained by its applicable attainment date, and to reclassify the Imperial County area as a moderate ozone nonattainment area and to adjust applicable deadlines. Thus, Executive Order 13132 does not apply to this rule.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This action does not have ''Tribal implications'' as specified in Executive Order 13175. This action merely proposes to determine that the Imperial County area has not attained by its applicable attainment date, and to reclassify the Imperial County area as a moderate ozone nonattainment area and to adjust applicable deadlines. The Clean Air Act and the Tribal Authority Rule establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045, ''Protection of Children From Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effects on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This action is not subject to Executive Order 13045 because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this rule present a disproportionate risk to children. This action merely proposes to determine that the Imperial Valley area has not attained the standard by the applicable attainment date, and to reclassify the Imperial Valley area as a moderate ozone nonattainment area and to adjust applicable deadlines.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, ''Actions That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer Advancement Act*

As noted in the proposed rule, section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. This action merely proposes to determine that the Imperial County area has not attained by the applicable attainment date, and to reclassify the Imperial County area as a moderate ozone nonattainment area and to adjust applicable deadlines. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action merely proposes to determine that the Imperial County area did not attain the 8-hour ozone NAAQS by the applicable attainment date, to reclassify the Imperial County area as a moderate ozone nonattainment area and to adjust applicable deadlines.

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control.

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

Dated: November 14, 2007.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. E7–22868 Filed 11–21–07; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

### 42 CFR Part 455

**[CMS–2271–P]**

**RIN 0938–AO97**

## Medicaid Integrity Program; Eligible Entity and Contracting Requirements for the Medicaid Integrity Audit Program

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed rule.