

prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by September 10, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814-2182, the EPA Region III address above or by e-mail at quinto.rose@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 3, 2001.

Thomas C. Voltaggio,

Deputy Regional Administrator, Region III.

[FR Doc. 01-20240 Filed 8-9-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4130b; FRL-7030-5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Four Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for four major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by September 10, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency,

Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814-2182, the EPA Region III address above or by e-mail at quinto.rose@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 3, 2001.

Thomas C. Voltaggio,

Deputy Regional Administrator, Region III.

[FR Doc. 01-20242 Filed 8-9-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 81

[CA038-FOA; FRL-7031-9]

Clean Air Act Finding of Attainment and Alternative Finding of Nonattainment and Reclassification to Serious; California-Imperial Valley Planning Area; Particulate Matter of 10 microns or less (PM-10)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to find that the State of California has established to EPA's satisfaction that the Imperial Valley Planning Area (Imperial County), a PM-10 moderate nonattainment area, would have attained the national ambient air quality standards (NAAQS) for particulate matter of ten microns or less (PM-10) by the applicable Clean Air Act (CAA or the Act) attainment

date, December 31, 1994, but for emissions emanating from outside the United States, i.e., Mexico. If EPA takes final action on this proposed finding, Imperial County will not be subject to a finding of failure to attain and reclassification to serious.

Alternatively, EPA is proposing to find that Imperial County did not attain the PM-10 NAAQS by its CAA mandated attainment date. This proposed finding is based on monitored air quality data for the PM-10 NAAQS during the years 1992-1994. If EPA takes final action on this proposed finding, Imperial County will be reclassified by operation of law as a serious nonattainment area under section 188(b)(2)(A) of the CAA.

EPA is proposing the above actions in the alternative in the event that public comments convince EPA that the State has not established that Imperial County would have attained the PM-10 NAAQS but for international transport by the applicable attainment date.

DATES: Comments on this proposed rule must be received in writing by September 10, 2001.

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

FOR FURTHER INFORMATION CONTACT: Doris Lo, U.S. Environmental Protection Agency, Region 9, Air Division, Planning Office (AIR-2), 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1287, lo.doris@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Provisions and EPA Actions Concerning Designation and Classification

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

but the easternmost portion of Imperial County, 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. Pursuant to section 189(a)(2), those SIP revisions were to be submitted to EPA by November 15, 1991.

B. CAA Provisions Concerning Reclassification to Serious Nonattainment

Pursuant to sections 179(c) and 188(b)(2) of the Act, EPA has the responsibility to determine 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 provision. 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 µg/m³. Attainment of the 24-hour standard is determined by calculating the expected number of exceedances of the 150 µg/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 is generally necessary to show attainment of the 24-hour and annual standards for PM-10. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all 4 calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

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

C. CAA Provisions Concerning International Border Areas

Imperial County shares its southern border with Mexico. CAA section 179B(d) provides that, notwithstanding any other provision of law, any State that establishes to the satisfaction of EPA that a PM-10 nonattainment area in such State would have attained the PM-10 NAAQS by the applicable attainment date but for emissions emanating from outside the United States (U.S.) shall not be subject to the provisions of CAA section 182(b).

Section 179B(a) sets forth the state implementation plan (SIP) requirements for moderate PM-10 areas that can make the above demonstration.

II. Proposed Finding of Attainment Under CAA Section 179B(d)

EPA is today proposing to find that, pursuant to CAA section 179B(d), the State of California has established to EPA's satisfaction that Imperial County attained the NAAQS for PM-10 by the applicable attainment date, December 31, 1994, but for emissions emanating from outside the U.S., and thus shall not be subject to a finding of failure to attain and reclassification under CAA section 188(b)(2). As discussed below, this proposed finding is based on the "Imperial County PM-10 Attainment Demonstration" (hereafter referred to as the "179B(d) demonstration") which was developed by the Imperial County Air Pollution Control District (ICAPCD) and transmitted to EPA by the California Air Resources Board (CARB) on July 18, 2001. (July 18, 2001 letter with enclosure from Michael P. Kenny, Executive Officer, Air Resources Board to Ms. Laura Yoshii, Acting Regional Administrator, EPA Region 9).¹

EPA has issued preliminary guidance relating to serious PM-10 nonattainment areas² (General Preamble guidance) that includes a discussion of the requirements applicable to international border areas. For these areas, the General Preamble guidance

¹ In his letter, Mr. Kenny states that CARB "worked closely with the Imperial County Air Pollution Control District * * * in developing their analysis, and agree with their conclusion that the area would have attained the standard from 1992 through 1994 but for transport from Mexico. Independent Air Resources Board analyses of all exceedances in that time frame support the District's conclusion." Because CARB has ratified the ICAPCD's 179B(d) demonstration and transmitted it to EPA, it is referred to in this proposal as the State's demonstration.

² "State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998, August 16, 1994.

discusses the information and methods that can be used in determining whether an area qualifies for treatment under CAA section 179B and then discusses SIP requirements for areas which are able to demonstrate that they would be in attainment but for the emissions emanating from outside the U.S. This proposal does not address the SIP requirements for the County but only the question of whether or not the State has established that Imperial County attained the NAAQS by December 31, 1994 but for international transport. If EPA issues a final finding that the nonattainment area would have attained but for international transport, EPA will in separate actions address the applicable SIP provisions and submissions by the State.

The General Preamble guidance states that "[s]everal types of information may be used to evaluate the impact of emissions emanating from outside the U.S. The EPA will consider the information presented by the State for individual nonattainment areas on a case-by-case basis in determining whether an area may qualify for treatment under section 179B. * * *". The General Preamble guidance also suggests five methods which may be used in determining the impact of emissions emanating from outside the U.S. and states that "the State may use one or more of these types of information or other techniques, depending on their feasibility and applicability, to evaluate the impact of emissions emanating from outside the U.S. on the nonattainment area." Below is a discussion of each of the methods as addressed in the 179B(d) demonstration.

Method 1. Place several ambient PM-10 monitors and a meteorological station measuring wind speed and direction in the U.S. non-attainment area near the international border. Evaluate and quantify any changes in monitored PM-10 concentrations with a change in direction in the predominant wind direction.

There are six PM-10 monitors in the nonattainment area, with two monitors in the proximity of the border (Calexico-Grant St. and Calexico-Ethel St., each 1.2 km from the Mexican border). A meteorological station at the Imperial County Airport was used to provide a windrose for each exceedance day. The 179B(d) demonstration provided, for each exceedance day, an analysis of the transport of PM-10 from Mexico, based on the spatial distribution of PM-10 throughout the basin, along with a windrose, and a series of back trajectories (based on the National Oceanic and Atmospheric

Administration HYSPLIT program). More details of this analysis are presented in the technical support document (TSD) for today's proposed rule.

PM-10 exceedances were recorded on seven days in the 1992-1994 time period. An analysis of the exceedances, which includes the spatial plots, windroses, and trajectories for each of the days, is presented in Appendix A to the 179B(d) demonstration. EPA's TSD discusses in detail each of the days and the basis for concluding that exceedances would not have occurred but for transport from Mexico.

For five of the days (August 23, 1993, July 7, 1994, August 6, 1994, October 17, 1994, and December 16, 1994) the analysis clearly supports the conclusion that but for the transport of emissions from Mexico, the PM-10 concentrations would not have exceeded the standard. The spatial plots for these days indicate a pattern of higher concentration near the border and show PM-10 concentrations decreasing with distance from the border. The windroses for August 23, 1993, July 7, 1994, August 6, 1994, indicate that a large number of hours (17 to 19) have the potential to carry emissions from Mexico to Imperial County.

For two of the exceedance days (January 19, 1993, and January 25, 1993) there are less data on which to base an analysis. The days are similar in character. For each day, there is only one measured value, at the Brawley monitor, which is slightly more than 20 miles from the border, so the spatial plot is inconclusive. The days are classified as stagnant. The windroses show that there is a potential to carry emissions from Mexico for 14 of 24 hours. The January 19, 1993 PM-10 concentration is only slightly above the standard (162 $\mu\text{g}/\text{m}^3$), and is likely to have been influenced by transport, given the stagnant conditions and the shape of the windrose. A PM-10 value of 175 $\mu\text{g}/\text{m}^3$ was measured on January 25, 1993. The emissions from Mexico are likely to have contributed to the PM-10 concentration at the monitor, although it is difficult to precisely quantify the extent of the contribution. Given the magnitude of emissions in the City of Mexicali (see method 4 discussion below), it is likely that the PM-10 standard would not have been exceeded but for the contribution of emissions from Mexico.

Method 2. Comprehensively inventory PM-10 emissions within the U.S. in the vicinity of the nonattainment area and demonstrate that the impact of those sources on the nonattainment area after application of reasonably available

controls does not cause the NAAQS to be exceeded. This analysis must include an influx of background PM-10 in the area. Background PM-10 levels could be based on concentrations measured in a similar area not influenced by emissions from outside the U.S.

The 179B(d) demonstration relied on the most recent gridded modeling inventory available. This inventory was prepared by CARB as part of the Southern California Ozone Study,³ using 1997 emissions data. A background concentration of 25 $\mu\text{g}/\text{m}^3$ was used, based on an analysis of the distribution of observed PM-10 data in Imperial County. The 25 $\mu\text{g}/\text{m}^3$ value represents the 10% cleanest days monitored in Imperial County. The inventory and background level were included in the modeling analysis discussed under method 5 below. The 179B(d) demonstration did not include an analysis of Method 2.

Method 3. Analyze ambient sample filters for specific types of particles emanating from across the border (although not required, characteristics of emissions from foreign sources may be helpful.)

The 1992-1993 Imperial Valley/Mexicali Cross Border PM-10 Transport Study (Final Report, January 30, 1997) includes an analysis of the particles collected in areas within Imperial County where violations have been recorded. This sample analysis determined that geological dust (70-90%), motor vehicle exhaust (10-15%) and vegetative burning (10%) account for the highest contribution to PM-10 concentrations. These are the predominant emissions sources on both sides of the border. Thus, the filter analysis by itself could not be used to determine the extent to which violations might result from international transport; however, as discussed in the TSD, the transport study provided conclusions about the international contribution based on a meteorological analysis of airflow in the study area.

Method 4. Inventory the sources on both sides of the border and compare the magnitude of PM-10 emissions originating within the U.S. to those emanating from outside the U.S.

The 1996 PM-10 emission inventory for the City of Mexicali, compiled by Radian (Radian International 2000

³ The Southern California Ozone Study (SCOS) was a large-scale field measurement program carried out in southern California during the summer of 1997 to collect sufficient aerometric data to allow data analysts and modelers to characterize and simulate ozone formation and fate in the region. Several agencies and others participated during the planning and operational phases of the field study, including CARB, EPA, local districts, the U.S. Navy, and the marine industry.

Mexicali Air Emission Inventory, February 2000) is of lower quality than the emissions inventory for the Imperial County sources; however, it is useful for a comparison of the magnitude of PM-10 emissions from each side of the border. The estimated emissions for the City of Mexicali (257 tons/day) are approximately equal to the PM-10 inventory for Imperial County (246 tons/day). The density of the emissions is much higher in Mexicali than in Imperial County because the City of Mexicali covers a much smaller geographic area than Imperial County. Furthermore, the City of Mexicali is in close proximity to that portion of Imperial County where violations have been recorded. This comparison does not prove PM-10 transport into Imperial County, but it does suggest that the City of Mexicali has the potential to be a substantial source contributing to the PM-10 concentrations in Imperial County because of the magnitude of the emissions, the density of the emissions, and the proximity to Imperial County.

TABLE A.—COMPARISON OF IMPERIAL COUNTY AND MEXICALI PM-10 EMISSIONS

| | Imperial county | City of Mexicali |
|---------------------------------------|-----------------|------------------|
| 1996 PM-10 Emissions (tons/day) | 246 | 257 |
| Population (2000) | 142,361 | 662,617 |
| Area—square miles | 4060 | 200 |
| Growth rate in percent (1990–2000) .. | 30 | 42 |

Source: 1996 PM-10 emission inventory for the City of Mexicali, compiled by Radian (Radian International 2000 Mexicali Air Emission Inventory, February 2000).

Method 5. Perform air dispersion and/or receptor modeling to quantify the relative impacts on the non-attainment area of sources on PM-10 emissions.

The 179B(d) demonstration includes air dispersion modeling for 1992, 1993 and 1994. The modeling inputs (meteorological data and inventory), model selection and modeling results are discussed in the TSD. The performance of the model relative to measured ambient concentrations could not be determined because emissions from Mexicali were not modeled. Therefore, EPA cannot evaluate the model performance and, as a result, the Agency believes that the modeling results are not sufficiently robust at this

time to demonstrate that Imperial County would have been in attainment of the 24-hour PM-10 standards but for PM-10 emissions from Mexico.

The results of the modeling are more useful for the demonstration of the annual standard, which is less sensitive to model inputs. The annual arithmetic mean for the Brawley monitoring station for the years 1992–1994 is only slightly above the annual standard, (51 $\mu\text{g}/\text{m}^3$), and this part of the basin is therefore likely to have attained the standard, but for international transport. The Calexico-Grant St. and Calexico-Ethel St. sites are in close proximity to the border. The Calexico Grant St. annual average was 56 $\mu\text{g}/\text{m}^3$. The Calexico-Ethel St. site, which has only partial data, has an annual average design value of 120 $\mu\text{g}/\text{m}^3$ in 1994, after adjustments upward for missing data. The modeling results (included in the TSD) also indicate that the annual standard would have been attained for each year from 1992–1994 at each of the Calexico sites.⁴ Based on the proximity to the border, the magnitude of the Mexicali emissions and the modeling results, EPA believes, that the annual standard would have been attained at these sites but for transport.

Summary of EPA Evaluation of 179B(d) Demonstration

The State's demonstration is based on a competently collected and examined set of the relevant available information, and reaches a reasoned conclusion that each of the 1992–94 exceedances, which are only slightly above the NAAQS, would likely not have occurred without pollutant transport from Mexico. However, in reviewing the methods for determining international transport, EPA lacks some information that would be helpful in determining with greater certainty the extent to which emissions from Mexico contributed to monitored values above the NAAQS. For example, the State was hampered by the absence of ambient monitoring or accurate emission inventories in the Mexicali area in the period 1992–94. These data cannot now be recreated in order to enable a more conclusive analysis. Thus, EPA believes that the 179B(d) demonstration has provided evidence sufficient to show that, but for international transport of PM-10, Imperial County would have attained the 24-hour PM-10 NAAQS by the December 31, 1994 deadline. This showing rests primarily on the qualitative analysis of wind patterns on exceedance days discussed under

method 1 and is further supported by the emissions inventories discussed under method 4. Furthermore, EPA believes the modeling discussed under Method 5 provides a demonstration that the annual PM-10 NAAQS has been attained but for international transport.

If EPA takes final action finding that the State has met the requirements of CAA section 179B(d), Imperial County must meet the planning requirements specified in CAA section 179B(a). Because the area has recorded PM-10 violations after 1994, EPA interprets the latter section as requiring, among other things, that the moderate area plan must provide for sufficient controls to demonstrate maintenance of the NAAQS after the applicable attainment date, but for emissions from outside of the United States.

III. Proposed Finding of Failure To Attain

As discussed above, EPA is proposing to find that the State of California has established to EPA's satisfaction that Imperial County would have attained the NAAQS for PM-10 by the applicable attainment date, December 31, 1994, but for emissions emanating from outside the U.S., and thus shall not be subject to a finding of failure to attain and reclassification. Because the 179B(d) demonstration is not completely definitive, however, EPA invites public comment on the issue and is proposing, in the alternative, to find that Imperial County did not attain either the 24-hour or annual PM-10 NAAQS by December 31, 1994. In the event that public comments convince EPA that the State has not made an adequate demonstration under section 179B(d) of the CAA, EPA plans to finalize this proposed finding of failure to attain. This proposed finding is based on air quality data (discussed below) indicating violations of the PM-10 NAAQS during 1992–1994. If EPA takes final action on this proposed finding, Imperial County will be reclassified by operation of law as a serious nonattainment area under section 188(b)(2)(A) of the CAA.

A. Analysis of the Ambient Air Monitoring Data

The 24-hour Standard

Table C below lists each of the monitoring sites in Imperial County where the 24-hour NAAQS (150 $\mu\text{g}/\text{m}^3$) was violated during 1992–1994.

Note: There is no Table B in this proposed rule.

⁴ Modeled annual average concentrations at all of the sites are below 43 $\mu\text{g}/\text{m}^3$ for each of the 3 years,

assuming only emissions from the United States side of the border.

TABLE C.—EXCEEDANCE VALUES FOR SITES VIOLATING THE 24-HOUR PM-10 NAAQS
[Micrograms per cubic meter, $\mu\text{g}/\text{m}^3$]

| Site | Exceedance | Date of exceedance |
|--|------------------------------|--------------------|
| Brawley | 175 $\mu\text{g}/\text{m}^3$ | 1/25/93 |
| | 162 $\mu\text{g}/\text{m}^3$ | 1/19/93 |
| Calexico Dichot—900 Grant Street | 208 $\mu\text{g}/\text{m}^3$ | 10/9/92 |
| | 253 $\mu\text{g}/\text{m}^3$ | 8/23/93 |
| | 156 $\mu\text{g}/\text{m}^3$ | 1/20/94 |
| El Centro | 166 $\mu\text{g}/\text{m}^3$ | 8/23/93 |
| El Centro Dichot | 167 $\mu\text{g}/\text{m}^3$ | 8/23/93 |
| Calexico—900 Grant St. (initiated 1994) | 182 $\mu\text{g}/\text{m}^3$ | 8/6/94 |
| | 165 $\mu\text{g}/\text{m}^3$ | 7/7/94 |
| | 159 $\mu\text{g}/\text{m}^3$ | 10/17/94 |
| Calexico—1029 Ethel St. (initiated 1994) | 258 $\mu\text{g}/\text{m}^3$ | 8/6/94 |

Under 40 CFR part 50, the 24-hour NAAQS is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu\text{g}/\text{m}^3$ 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 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.

The four monitoring sites (Brawley, Calexico-Dichot, El Centro, and El Centro-Dichot) in Imperial County that recorded violations of the 24-hour PM-10 NAAQS operated on a one-in-six day sampling schedule. After making the adjustment for days not sampled, the number of expected exceedances from 1992–1994 at four of the above monitoring sites were 4.3, 6.1, 2.0 and 2.0, for the Brawley, Calexico Dichot—Grant St., El Centro and El Centro Dichot sites, respectively. These

expected exceedances cause the four monitoring sites to be in violation of the 24-hour PM-10 NAAQS. EPA is also including data from two additional samplers (Calexico—Grant St. and Calexico—Ethel St.) which exceeded the 24-hour PM-10 NAAQS in their initial year of operation, 1994.

The Annual Standard

Table D below lists each of the monitoring sites where the annual standard was violated during 1992–1994.

TABLE D.—ARITHMETIC MEAN VALUES FOR SITES VIOLATING THE ANNUAL PM-10 NAAQS
[Micrograms per cubic meter, $\mu\text{g}/\text{m}^3$]

| Site | 1992 annual arithmetic mean | 1993 annual arithmetic mean | 1994 annual arithmetic mean |
|--|-----------------------------------|-----------------------------------|--------------------------------|
| Brawley | 48 $\mu\text{g}/\text{m}^3$ | 53 $\mu\text{g}/\text{m}^3$ | 52 $\mu\text{g}/\text{m}^3$. |
| Calexico Dichot—900 Grant St. | 58 $\mu\text{g}/\text{m}^3$ | 59 $\mu\text{g}/\text{m}^3$ | 50 $\mu\text{g}/\text{m}^3$. |
| Calexico—900 Grant St. (initiated 1994) | ND | ND | 75 $\mu\text{g}/\text{m}^3$. |
| Calexico—1029 Ethel St. (Initiated 1994) | ND | ND | 120 $\mu\text{g}/\text{m}^3$. |

ND—No Data.

According to 40 CFR part 50, the annual standard for PM-10 is attained when the expected arithmetic mean concentration, as determined by 40 CFR part 50 Appendix K, is less than or equal to 50 $\mu\text{g}/\text{m}^3$. In general, the expected annual arithmetic mean is determined by averaging the annual arithmetic mean PM-10 concentrations for the past 3 calendar years.

The annual standard was not attained at two monitoring sites (Brawley and Calexico Dichot—Grant St.) in Imperial County. Based on the monitoring data collected during 1992–1994, the Brawley site had an annual average of 51 $\mu\text{g}/\text{m}^3$, and the Calexico Dichot—Grant St. had an annual average of 56 $\mu\text{g}/\text{m}^3$. EPA is also including data from 2 additional samplers (Calexico—Grant St. and Calexico—Ethel St.) which

violated the annual PM-10 NAAQS and were initiated in 1994.

B. SIP Requirements for Serious Areas

If EPA takes final action finding that Imperial County failed to attain the PM-10 NAAQS by December 31, 1994, the area will be reclassified by operation of law as a serious nonattainment area under section 188(b)(2)(A) of the CAA. PM-10 nonattainment areas reclassified as serious under section 188(b)(2) of the CAA are required to submit, within 18 months of the area's reclassification, SIP revisions providing for the implementation of best available control measures (BACM) no later than four years from the date of reclassification. The SIP must also, among other things, provide for attainment of the PM-10

NAAQS by December 31, 2001.⁵ 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).

IV. Today's Proposed Actions

EPA is today proposing to find that the State of California has established to EPA's satisfaction that Imperial County has attained the PM-10 NAAQS by the applicable attainment date, December 31, 1994, but for the emissions emanating from outside the U.S., and thus shall not be subject to a finding of failure to attain and reclassification to serious.

⁵ If certain conditions are met, EPA may extend this attainment deadline to no later than December 31, 2006. CAA section 188(e).

In view of the technical issues and difficulties involved in demonstrating cross-border transport and in the event that public comment convinces EPA that the State has not made an adequate demonstration, EPA is also proposing, in the alternative, to find that Imperial County did not attain either the 24-hour or annual PM-10 NAAQS by the required attainment date. If EPA takes final action on this proposed finding, Imperial County will be reclassified by operation of law as a serious nonattainment area under section 188(b)(2)(A) of the CAA.

EPA requests public comments on all aspects of these alternative proposals. EPA will consider any comments received by September 10, 2001.

V. Administrative Requirements

A. Executive Order 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, (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 proposed finding of attainment pursuant to CAA section 179B(d) and the proposed finding of failure to attain and the resulting reclassification would result in none of the effects identified in section 3(f). A finding of attainment under section 179B(d) of the CAA does not impose any additional requirements on an area and a finding of failure to attain under section 188(b)(2) is based 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 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.

B. Executive Order 13211

The proposed finding of attainment under CAA 179B(d) and the proposed finding of failure to attain and the resulting reclassification are not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because they are not significant regulatory actions under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks 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 a disproportionate effect 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.

The proposed finding of attainment under CAA 179B(d) and the proposed finding of failure to attain under CAA 188(b)(2) and resulting reclassification are not subject to Executive Order 13045 because they do not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

Executive Order 13132, "Federalism," (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, "Federalism," and 12875, "Enhancing the Intergovernmental Partnership." Executive Order 13132 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

These proposed findings will not have substantial direct effects on California, on the relationship between the national government and California, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. As stated above, a finding of attainment under section 179B(d) of the CAA does not impose any additional requirements on an area and a finding of failure to attain under section 188(b)(2) is based 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 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. Thus, the requirements of section 6 of the Executive Order do not apply to these proposed alternative actions.

E. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 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.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

The proposed finding of attainment under CAA 179B(d) and the proposed finding of failure to attain under CAA 188(b)(2) and resulting reclassification do not have tribal implications. For the reasons discussed above, they will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions.

As discussed above, the proposed finding of attainment under CAA 179B(d) and the proposed finding of failure to attain under CAA 188(b)(2) and resulting reclassification do not impose additional requirements on small entities. Therefore, I certify that these alternative actions will not have a significant economic impact on a substantial number of small entities.

G. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome

alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

With respect to EPA’s proposed finding of attainment under CAA 179B(d) and the proposed finding of failure to attain under CAA 188(b)(2) and resulting reclassification, EPA notes that these actions in-and-of themselves establish no new requirements, and EPA believes that it is questionable whether a requirement to submit a SIP revision constitutes a federal mandate (i.e., required serious area SIP submittal resulting from a finding of failure to attain). The obligation for a State to revise its SIP arises out of sections 110(a) and 179(d) of the CAA and is not legally enforceable by a court of law, and at most is a condition for continued receipt of highway funds. Therefore, it is possible to view an action requiring such a submittal as not creating any enforceable duty within the meaning of section 421(5)(9a)(I) of UMRA (2 U.S.C. 658(a)(I)). Even if it did, the duty could be viewed as falling within the exception for the condition of Federal assistance under section 421(5)(a)(I)(I) of UMRA (2 U.S.C. 658(5)(a)(I)(I)).

In addition, even if the obligation for a State to revise its SIP does create an enforceable duty within the meaning of UMRA, this action does not trigger section 202 of UMRA because the aggregate to the State, local, and tribal governments to comply are less than \$100,000,000 in any one year. Because this action does not trigger section 202 of UMRA, the requirement in section 205 of UMRA that EPA identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most effective, or least burdensome alternative that achieves the objectives of the rule is not applicable.

Furthermore, EPA is not directly establishing any regulatory requirements that may significantly impact or uniquely affect small governments, including tribal governments. Thus, EPA is not obligated to develop under section 203 of UMRA a small government agency plan.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary

consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today’s proposed actions because they do not require the public to perform activities conducive to the use of VCS.

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: August 6, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 263, 264, 265, 271

[FRL–7030–4]

RIN 2050–AE21

Extension of Comment Period for the Proposed Modifications of the Hazardous Waste Manifest System

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period for modifications of the hazardous waste manifest system.

SUMMARY: In response to the Association of State and Territorial Solid Waste Management Officials (ASTSWMO), the Environmental Protection Agency (EPA) is extending the comment period on its proposed modifications to the Uniform Hazardous Waste Manifest regulations. On May 22, 2001 (66 FR 28240), EPA proposed modifications to the hazardous waste manifest system and the manifest form that is used to track hazardous waste shipments during their transportation. The comment period announced in the proposed rule notice was scheduled to end on August 20, 2001. Today’s document further extends the comment period on the proposed manifest system modifications until October 4, 2001.

DATES: Written comments on the proposed hazardous waste manifest modifications must be submitted on or before October 4, 2001.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number