Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; Department of Homeland Security Delegation No. 0170.1, 33 CFR 100.35.

2. Add a temporary § 100.35–T05–109 to read as follows:

§ 100.35–T05–109 Sunset Lake, Wildwood Crest, NJ

(a) *Definitions*—(1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Atlantic City.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Group Atlantic City with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Sunset Lake Hydrofest under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Group Atlantic City.

(4) *Regulated area* includes all waters of Sunset Lake, New Jersey, from shoreline to shoreline, south of latitude 38° 58′32″ N. All coordinates reference Datum: NAD 1983.

(b) *Special local regulations.* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) Unless otherwise directed by the Official Patrol, operate at a minimum wake speed not to exceed six (6) knots.

(c) *Enforcement period.* This section will be enforced from 7:30 a.m. to 2:30 p.m. on September 27 and 28, 2003.

Dated: August 5, 2003.

Sally Brice-O'Hara,

Rear Admiral, Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 03–20928 Filed 8–14–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA087–DESIG; FRL–7544–8]

Clean Air Act Area Designations; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to make minor changes in the boundaries between areas in Southern California established under the Clean Air Act for purposes of addressing the national ambient air quality standards (NAAQS) for 1-hour ozone, particulate matter (PM–10), carbon monoxide (CO), nitrogen dioxide (NO_2), and sulfur dioxide (SO_2), and the prior NAAQS for total suspended particulate matter (TSP).

We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by September 15, 2003.

ADDRESSES: Please address your comments to: Dave Jesson, Air Planning Office (AIR–2), Air Division, EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, or to *jesson.david@epa.gov*.

A copy of the State's submittal is available for public inspection during normal business hours at EPA's Region IX office. Please contact Dave Jesson if you wish to schedule a visit. A copy of the submittal is also available at the following location: California Air Resources Board, 1001 ''I'' Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, EPA Region IX, at (415) 972–3957, or *jesson.david@epa.gov*.

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

I. Background

A. Current Area Boundaries, Designations, and Classifications

Areas of the country were originally designated as attainment, nonattainment, or unclassifiable following enactment of 1977 Amendments to the Clean Air Act (''CAA'' or ''the Act''). 43 FR 8962 (March 3, 1978). These designations were generally based on monitored air quality values compared to the applicable NAAQS.

On November 15, 1990, the date of enactment of the 1990 CAA Amendments, each ozone and CO area designated nonattainment, attainment, or unclassifiable immediately before enactment of the Amendments was designated, by operation of law, as a nonattainment, attainment, or unclassifiable area, respectively. CAA section 107(d)(1)(C). The specific boundaries of the areas were determined subsequently based on requests by each state and final determinations by EPA. 56 FR 56694 (November 6, 1991). Ozone and CO nonattainment areas were also given classifications according to the design values prescribed in the 1990 Amendments. CAA sections 181(a)(1) and 186(a)(1), respectively.

PM–10 areas meeting the requirements of either (i) or (ii) of CAA section 107(d)(4)(B) were designated nonattainment for PM–10 by operation of law and classified ''moderate'' at the time of enactment of the 1990 CAA Amendments. EPA later designated additional PM–10 nonattainment areas (*see,* for example, 58 FR 67335, December 21, 1993) and amended the initial classifications in accordance with CAA section 188(b).

SO_2 and NO_2 areas designated as nonattainment or attainment/unclassified before enactment of the 1990 CAA Amendments retained those designations by operation of law. CAA section 107(d)(1)(C)(i) and (ii), respectively.

Area boundaries and (for ozone, CO, and PM–10) area classifications have been amended over the years under the

applicable CAA provisions, either by request of each state, by operation of law, or by EPA initiative. For the State of California, the current area designations and classifications are codified at 40 CFR 81.305. For historical reference, this regulatory section also includes designations for TSP, a NAAQS which was replaced in 1987 when we promulgated the PM–10 NAAQS.

B. California's Request for Area Changes

Under CAA 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 designation of any nonattainment area or portions thereof within the State.[1] On November 18, 2002, the California Air Resources Board (CARB) submitted to EPA a request under CAA section 107(d)(3)(D) to revise the boundaries of the Los-Angeles-South Coast Air Basin Area (''South Coast Air Basin'') and the Southeast Desert Air Basin.[2] The purposes of CARB's request are to:

(1) Enlarge the South Coast Air Basin to include the Banning Pass area, thereby excluding the area from the Southeast Desert;

(2) harmonize the PM–10 and ozone boundaries of the Coachella Valley area [3] by changing the ozone area boundaries to match the PM–10 area boundaries; and

(3) correct the eastern boundary of the South Coast Air Basin with respect to CO.

II. EPA Review of the State's Request

A. Applicable Criteria

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), we use the same factors Congress directed us to consider when we initiate a revision to a designation of an area on our 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. Expansion of the South Coast Air Basin to Include the Banning Pass

The Banning Pass area in Riverside County is also known as the San Gorgonio Pass area. The area is a mountain saddle about 15 miles long by 5 miles wide in northwestern Riverside County. There are only 4 communities in this area: Banning, Beaumont, Cabazon, and Cherry Valley. This area is currently part of the Southeast Desert severe-17 ozone nonattainment area and the Coachella Valley serious PM–10 nonattainment area, and the area has been designated as attainment or unclassifiable with respect to CO, NO_2, SO_2, and TSP.[4] The populated portion of the Southeast Desert-Coachella Valley area is primarily low desert. Palm Springs is the largest community, and tourism and agriculture are the major industries in the Coachella Valley.

The South Coast Air Quality Management District (SCAQMD) has local jurisdiction over the South Coast Air Basin, the Banning Pass area, and the Coachella Valley portion of the Southeast Desert. Both CARB and SCAQMD conclude that the Banning Pass area is more similar to the South Coast Air Basin in climate and topography and measured air quality, and that air pollution levels within the Banning Pass area are far more heavily influenced by emissions originating in the South Coast Air Basin than in the Southeast Desert-Coachella Valley.

The climate of the Banning Pass area closely resembles the ''steppe'' (semi-arid) climate of the South Coast Air Basin in terms of rainfall and temperature. Precipitation levels recorded in the Banning Pass are much higher than those of the Coachella Valley, which has a ''desert'' (arid) climate classification. For example, the annual average rainfall is 17 inches in Beaumont, and only 5.2 inches in Palm Springs. On average, summer temperatures in the Coachella Valley are 10–15 degrees F warmer than those recorded at the Banning Pass and in the central South Coast Air Basin. The mean temperature in Palm Springs for July is 92 degrees F, compared to 77 degrees F in Beaumont.

Pollution from western and central portions of the South Coast Air Basin is typically transported eastward by prevailing ocean breezes. This results in high ozone concentrations measured in mountain sites at the eastern boundary of the basin, including Banning (elevation 2300 feet), which recorded a total of 25 exceedances with a design value of 0.143 parts per million (ppm) during the period 1999 to 2001. During this same period, Palm Springs (elevation 200 feet) recorded only 7 exceedances, with a design value of 0.128 ppm. Similarly, the Banning Pass is much more closely linked to the South Coast Air Basin than to the Southeast Desert with respect to emissions and ambient concentrations for the other pollutants, such as NO_2 and SO_2.

In terms of ozone generation, the South Coast Air Basin has far greater emissions than the Southeast Desert generally and the Coachella Valley specifically, and the easterly direction of the prevailing winds also ensures that elevated pollution levels in Banning Pass are a consequence of the air mass shared with the western and central portions of the South Coast Air Basin, and are not associated with the Coachella Valley or other portions of the Southeast Desert.

For these reasons, the Banning Pass area was moved to the South Coast Air Basin under State law in 1996. CARB and SCAQMD therefore request that the Federal boundaries be adjusted to match the boundaries used for State air quality purposes, by moving the Banning Pass area from the Southeast Desert-Coachella Valley area to the South Coast Air Basin.

The table below labeled ''Banning Pass Area'' shows the current federal designations and classifications of this area, and the changes that would result from approval of the State's proposed revision.

[1] 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).

[2] The Los Angeles-South Coast Air Basin Area includes all of Orange County and the more populated portions of Los Angeles, San Bernardino, and Riverside Counties. The Southeast Desert Air Basin includes portions of Los Angeles, San Bernardino, and Riverside Counties. For a description of the current boundaries of the basins and subareas, *see* 40 CFR 81.305.

[3] The Coachella Valley area is part of the Southeast Desert nonattainment area for ozone and is its own PM–10 nonattainment area.

[4] CAA sections 181(a)(1) and (2) establish an ozone classification scheme based on 1-hour ozone design values, and set attainment deadlines for each classification. CAA section 182 then provides progressively more stringent requirements for the State Implementation Plans (SIPs) depending upon an area's classification. The 1-hour ozone classifications are marginal, moderate, serious, severe, and extreme, and the severe classification is divided into those areas with attainment deadlines 15 years after enactment of the 1990 CAA Amendments and those areas with deadlines 17 years after enactment. Similarly, the CAA sets moderate and serious classifications for CO (in section 186(a)(1)) and for PM–10 (in sections 188(a) and (b)).

BANNING PASS AREA

	Ozone		CO		PM–10		NO_2	SO_2
	Designation	Classification	Designation	Classification	Designation	Classification	Designation	Designation
Current	Non-attainment (area is part of SE Desert Modified AQMA Area).	Severe 17	Unclassifiable/ Attainment (part of SE Desert Air Basin, Riverside County, AQMA portion).	N/A	Non-attainment (part of Riverside County, Coachella Valley planning area).	Serious	Cannot be classified or better than national standards (part of Riverside County, non-AQMA portion).	Cannot be classified (part of SE Desert Air Basin, excluding Imperial County).
Proposed	Non-attainment (area becomes part of South Coast Air Basin).	Extreme	Non-attainment (area becomes part of South Coast Air Basin).	Serious	Non-attainment (area becomes part of South Coast Air Basin).	Serious	Cannot be classified or better than national standards (area becomes part of South Coast Air Basin).	Cannot be classified (area becomes part of South Coast Air Basin).

We believe that Banning is more similar to the South Coast than the Coachella area, and that it would support efficient planning and control to move the federal boundary of the South Coast Air Basin eastward to encompass the Banning Pass area.

C. Revision to the Southeast Desert Ozone Nonattainment Boundary to Align It's Eastern Border With the Coachella Valley PM–10 Nonattainment Boundary

At present, the boundary of the Coachella Valley portion of the Southeast Desert ozone nonattainment area is different from the boundary of the Coachella Valley nonattainment area for PM–10. The existing ozone nonattainment area boundary differs from the Riverside portion of the Southeast Desert Air Basin boundary by: (1) Excluding a sparsely populated, 550 square mile portion of the Coachella Valley area, and (2) including a tiny portion of the Southeast Desert Air Basin. The State has proposed to align the Coachella Valley nonattainment area boundaries by using for all pollutants the boundary of the Coachella Valley nonattainment area for PM–10. This boundary tracks the mountain ridge line that separates the air basins and thus reflects air quality considerations. The change will simplify and make more consistent the planning activities for ozone and PM–10, and will reconcile boundaries for Federal and State planning purposes. As a result of the change, a sparsely-populated mountainous area above the Coachella Valley would shift from an ozone attainment area to a nonattainment area, with a severe-17 classification.

We agree with the State's argument that it is appropriate to align the federal boundaries of the Coachella Valley portion of the Southeast Desert Air Basin ozone nonattainment area to match the Coachella Valley PM–10 nonattainment area.

D. Typographical Correction to the Boundaries of the South Coast Air Basin for Carbon Monoxide

The CO boundaries of the South Coast Air Basin in 40 CFR 81.305 are incorrect because they mistakenly incorporate the following phrase: ''and that portion of San Bernardino County which lies south and west of a line described as follows: 3. latitude 35 degrees, 10 minutes north and longitude 115 degrees, 45 minutes west.'' Neither EPA nor CARB intended the South Coast CO nonattainment area to include this portion of San Bernardino County, which was inadvertently incorporated in the designations promulgated on November 6, 1991 (56 FR 56724). California requests that we correct this typographical mistake in the original designation by deleting the portion of the boundary description quoted above. Correction of this error will result in the CO boundaries conforming to the 1-hour ozone boundaries for the South Coast Air Basin. We agree that this correction is appropriate.

III. Summary of Proposed Action and Request for Comment

EPA is proposing to take the following actions:

(1) Approve the State's request to revise the boundary of the South Coast Air Basin to incorporate the Banning Pass;

(2) Approve the State's request to amend the 1-hour ozone boundary of the Coachella Valley area (Riverside County portion of the Southeast Desert Air Basin to correspond to the PM–10 boundary; and

(3) Approve the State's request to make a typographical correction to the boundary of the South Coast Air Basin with respect to CO.

Because EPA believes the proposed boundary revisions, reorganizations, and corrections are consistent with relevant requirements, we are proposing to fully approve them under CAA section 107(d)(3)(D). We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval of the designation changes.

IV. 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. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. 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.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does 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).

This proposed rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does 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). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, 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. This proposed rule does 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.

Dated: August 6, 2003.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 03–20894 Filed 8–14–03; 8:45 am]

BILLING CODE 6560–50–U

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1601, 1602, 1604, 1615, 1631, 1632, 1644, and 1652

RIN 3206–AJ20

Federal Employees Health Benefits; Acquisition Regulation: Large Provider Agreements, Subcontracts, and Miscellaneous Changes

AGENCY: Office of Personnel Management.

ACTION: Proposed regulation.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed regulation to amend the Federal Employees Health Benefits Acquisition Regulation (FEHBAR). We are proposing a new policy that establishes notification and information requirements, including audit, for Federal Employees Health Benefits (FEHB) Program experience rated carriers' large provider agreements. The proposed regulation also modifies the threshold for review of carrier subcontracts; revises the definitions of Cost or Pricing Data and Experience Rate to reflect mental health parity requirements effective with the 2001 contract year; updates the records retention period, updates the FEHB Program Clause Matrix, and conforms various subpart and paragraph references in the Federal Acquisition Regulation (FAR) revisions made since we last updated the FEHBAR.

DATES: Comments must be received on or before October 14, 2003.

ADDRESSES: Send written comments to Abby L. Block, Deputy Associate Director, Employee and Family Services, Strategic Human Resources Policy Division, Office of Personnel Management, Washington, DC 20415–3601; or deliver to OPM, Room 3425, 1900 E Street NW., Washington, DC; or FAX to (202) 606–0633.

FOR FURTHER INFORMATION CONTACT: Michael W. Kaszynski, (202) 606–0004; or send email to *mwkaszyn@opm.gov.*

SUPPLEMENTARY INFORMATION: The primary purpose of this rulemaking is to provide for additional OPM oversight of the FEHB Program carriers' contract costs that are charged to the Government. Since the beginning of the Program, we have maintained oversight of FEHB carriers' costs, including their subcontractor costs. We have specified standard contracting requirements for review and audit of those costs and have routinely updated our requirements as necessary. Historically, we did not consider providers of medical services or supplies to be subcontractors as the term is defined in the Federal Acquisition Regulation (FAR) because hundreds of thousands of such agreements between carriers and providers are in place, and until recently, the dollar value of each individual agreement was relatively small. However, the healthcare delivery system has changed over the years and new large healthcare delivery entities now play a significant role in the healthcare industry. FEHB carriers contract with those types of entities for the delivery of services that represent a significant portion of individual carriers total costs charged to the FEHB Program, and in the aggregate represent a sizeable portion of overall Program costs. Because of the impact of these costs on the FEHB Program, we are expanding our oversight in this area. Even though large providers of medical services or supplies are not defined as subcontractors under the FEHB Program, the proposed regulatory changes would bring them under the umbrella of the FEHBAR and subject them to audit requirements currently applicable to carriers and their subcontractors. Some but not all FEHB carriers' large provider agreements already provide for a limited right to audit. We believe the provision should be in regulation rather than in individual contracts to make the context clear, explicit and consistent for all experience-rated carriers by mirroring the regulatory requirements for subcontracting arrangements that are already in place. As is currently the case with audit findings in subcontract arrangements, any audit findings regarding large providers would be referred to the FEHB carriers holding the provider contract.

For FAR audit purposes, we define a *large provider agreement* as an agreement between (1) an FEHB carrier, at least 25 percent of whose total contracts are comprised of FEHB enrollee contracts, and (2) a provider, where the total costs charged to the FEHB carrier for a contract term for FEHB members, including benefits and services, are reasonably expected to exceed 5 percent of the carrier's total FEHB benefits costs, or 5 percent of the carrier's total FEHB administrative costs (where the provider is not responsible for benefits costs under the agreement). We will use the FEHB Program Annual Accounting Statement for the prior contract year to determine the 5 percent threshold.

The proposed regulation requires experience rated carriers to meet minimum notification and information requirements with respect to any new