

sufficient federalism implications for which we would prepare a Federalism Assessment.

#### Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

#### Unfunded Mandates Reform Act of 1995

This rule will not cause State, local and tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

#### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### Plain Language Instructions

We want to make our documents easier to read and understand. If you can suggest how to improve the clarity of these regulations, call or write to Sarah Qureshi at the address or telephone number listed above.

#### List of Subjects in 28 CFR Part 542

Prisoners.

#### Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we amend 28 CFR part 542 as set forth below.

## SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

### PART 542—ADMINISTRATIVE REMEDY

1. Revise the authority citation for 28 CFR part 542 to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

2. Revise § 542.10 to read as follows:

#### § 542.10 Purpose and scope.

(a) *Purpose.* The purpose of the Administrative Remedy Program is to allow an inmate to seek formal review of an issue relating to any aspect of his/her own confinement. An inmate may not submit a Request or Appeal on behalf of another inmate.

(b) *Scope.* This Program applies to all inmates in institutions operated by the Bureau of Prisons, to inmates designated to contract Community Corrections Centers (CCCs) under Bureau of Prisons responsibility, and to former inmates for issues that arose during their confinement. This Program does not apply to inmates confined in other non-federal facilities.

(c) *Statutorily-mandated procedures.* There are statutorily-mandated procedures in place for tort claims (28 CFR part 543, subpart C), Inmate Accident Compensation claims (28 CFR part 301), and Freedom of Information Act or Privacy Act requests (28 CFR part 513, subpart D). If an inmate raises an issue in a request or appeal that cannot be resolved through the Administrative Remedy Program, the Bureau will refer the inmate to the appropriate statutorily-mandated procedures.

#### § 542.12 [Removed and Reserved]

3. Remove and reserve § 542.12.

[FR Doc. 02–19747 Filed 8–5–02; 8:45 am]

BILLING CODE 4410–05–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[CA–034–FIN; FRL–7256–1]

#### Clean Air Act Redesignation and Reclassification, Searles Valley Nonattainment Area; Designation of Coso Junction, Indian Wells Valley, and Trona Nonattainment Areas; California; Determination of Attainment of the PM–10 Standards for the Coso Junction Area; Particulate Matter of 10 microns or less (PM–10)

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

**ACTION:** Final rule.

**SUMMARY:** EPA is changing the boundaries of the Searles Valley, California moderate PM–10 nonattainment area (NA) by dividing that area into three new, separate moderate NAs: Coso Junction, Indian Wells Valley, and Trona. EPA is also finding that the Trona NA has attained the 24-hour and annual PM–10 national ambient air quality standards (NAAQS) by the Clean Air Act (CAA) mandated attainment date for moderate nonattainment areas.

**EFFECTIVE DATE:** September 5, 2002.

**ADDRESSES:** You can inspect a copy of the docket for this action at EPA's Region IX office during normal business hours. See address below. This document and the proposal for this final rule are also available as electronic files on EPA's Region 9 Web page at [www.epa.gov/region09/air](http://www.epa.gov/region09/air).

**FOR FURTHER INFORMATION CONTACT:** Karen Irwin, U.S. Environmental Protection Agency, Region 9, Air Division, Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, California 94105, (415) 947–4116, [irwin.karen@epa.gov](mailto:irwin.karen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### A. Nonattainment Area Boundary Changes

On November 15, 1990, the date of enactment of the 1990 Clean Air Act Amendments, pursuant to CAA sections 107(d)(4)(B) and 188(a) respectively, the Searles Valley planning area was designated nonattainment and classified as moderate by operation of law. See 40 CFR 81.305. The Searles Valley NA is situated at the southeastern end of the Sierra Nevada Mountains and includes portions of Inyo, Kern and San Bernardino Counties. The boundaries of the NA are defined by United States

Geological Survey (USGS) Hydrologic Unit #18090205, an area of approximately 2000 square miles. *Id.*

Under section 107(d)(3)(D), the Governor of any state, on the Governor's own motion, is authorized to submit to the Administrator a revised designation <sup>1</sup>\*COM019\* of any nonattainment area or portions thereof within the State. On May 4, 2001, the California Air Resources Board (CARB) submitted to EPA a request under CAA section 107(d)(3)(D) to revise the boundaries for the Searles Valley NA by dividing the area into three separate PM-10 nonattainment areas, Coso Junction, Indian Wells Valley and Trona, to be separated along the Inyo, Kern, and San Bernardino County lines within the Searles Valley NA.

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

#### B. Determinations of Attainment/Nonattainment

States containing areas such as Searles Valley which were designated as moderate nonattainment by operation of law under section 107(d)(4)(B) were required to develop and submit state implementation plans (SIPs) to provide for the attainment of the PM-10 NAAQS by no later than December 31, 1994.

EPA has the responsibility, pursuant to sections 179(c) and 188(b)(2) of the Act, of determining within 6 months of the applicable attainment date whether PM-10 nonattainment areas have attained the NAAQS. Section 179(c)(1) of the Act provides that these determinations are to be based upon an area's "air quality as of the attainment date" and section 188(b)(2) is consistent with this requirement. A total of 3 consecutive years of clean air quality data are generally necessary to show attainment of the 24-hour and annual standards for PM-10. Because the attainment deadline for the Searles Valley was December 31, 1994, for purposes of the attainment finding, EPA is using monitoring data from 1992-1994.

<sup>1</sup> 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).

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/m<sup>3</sup>. Attainment of the 24-hour standard is determined by calculating the expected number of exceedances of the 150 µg/m<sup>3</sup> limit per year. The 24-hour standard is attained when the expected number of exceedances is 1.0 or less.

#### II. EPA's Proposed Actions

On June 13, 2001, EPA proposed to divide, pursuant to CAA section 107(D)(3)(d), the Searles Valley PM-10 NA into three separate, newly created NAs: Coso Junction, Indian Wells Valley and Trona. 66 FR 31873. EPA proposed that the Coso Junction NA boundaries would consist of the portion of Inyo County contained within USGS Hydrologic Unit #18090205; the proposed Indian Wells Valley NA boundaries would include the portion of Kern County contained within USGS Hydrologic Unit #18090205; and the proposed Trona NA boundaries would include the portion of San Bernardino County contained within USGS Hydrologic Unit #18090205. The combination of these three proposed NAs would comprise the same area included in the Searles Valley NA as set forth in 40 CFR 81.305. EPA's rationale for the boundary revisions is discussed in detail in the proposed rule. See 66 FR 31873, 31874-31875.

In addition, EPA proposed to find, pursuant to CAA sections 179(c) and 188(b)(2), that the proposed Trona NA had attained the 24-hour and annual PM-10 standards by the moderate area attainment deadline, December 31, 1994.<sup>2</sup> This proposed finding was based on air quality data showing that the Trona area has not recorded any exceedances of the 24-hour and annual PM-10 NAAQS for the 1992-1994 period. See 66 FR 31873, 31875-31877.

EPA received comment letters on its June 13, 2001 proposed actions from the Kern County Air Pollution Control

<sup>2</sup> On June 13, 2001, EPA also proposed to find that the proposed Indian Wells and Coso Junction NAs have not attained the 24-hour and annual PM-10 NAAQS by December 31, 1994. Today's final rule addresses only the finding concerning the Trona NA. EPA intends to take additional action with respect to the Indian Wells and Coso NAs in future rulemakings.

District, the Department of the Navy and CARB. Both the Navy and CARB supported changing the boundaries of the Searles Valley NA to create three new nonattainment areas and the attainment finding for the Trona area. EPA received no negative comments on these proposed actions.<sup>3</sup>

#### III. Today's Action

In today's final action, EPA is dividing the Searles Valley NA into three, newly created NAs: Coso Junction, Indian Wells Valley and Trona. EPA is also finding that the newly created Trona moderate NA attained the 24-hour and annual PM-10 NAAQS by the CAA mandated deadline of December 31, 1994.

#### IV. Administrative Requirements

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

The splitting of the Searles Valley NA into three new, separate NAs with a moderate classification will not impose any new requirements on any sectors of the economy because the area is already classified as moderate. Moreover, under the CAA, a determination that the Trona area has attained the PM-10 national ambient air quality standards is based on an objective review of measured air quality. As such, the nonattainment area split and the attainment determination do not impose any new requirements on any sectors of the economy and do not have any adverse impact on State, local, or tribal governments or communities.

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

These actions do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because the division of the Searles Valley NA into three, new and separate NAs with a moderate classification and the determination of attainment for the new Trona area will not impose any new requirements on any sectors of the economy. For the same reason, this rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the

<sup>3</sup> EPA received a number of comments on its proposed nonattainment findings for the proposed Indian Wells and Coso Junction NAs. The Agency will address these comments in any future rulemakings regarding these proposals.

distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). For these same reasons, these actions will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). These actions are also not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because they are not economically significant. Finally, for these same reasons, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing these actions, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive

order. These actions do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 7, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

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

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

Dated: July 25, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

Part 81 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 81—[AMENDED]**

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.305 the "California-PM-10" table is amended as follows:

a. By adding "Coso Junction planning area" as a designated area immediately under the entry "Inyo County";

b. By revising the entry "San Bernardino, Inyo and Kern Counties";

c. By adding "Indian Wells Valley planning area" as a designated area immediately under the entry "Fresno, Kern, Kings, Tulare, San Joaquin, Stanislaus, Madera Counties."

**§ 81.305 California.**

\* \* \* \* \*

**CALIFORNIA—PM-10**

Designated area	Designation		Classification	
	Date	Type	Date	Type
Inyo County				
Coso Junction planning area	September 5, 2002	Nonattainment	September 5, 2002	Moderate.
That portion of Inyo County contained within Hydrologic Unit #18090205				
* * *	* * *	* * *	* * *	* * *
San Bernardino County				
San Bernardino (part):				
Excluding that portion located in the Trona planning area, and				
Excluding that area in the South Coast Air Basin				
Trona planning area: That portion of San Bernardino County contained within Hydrologic Unit #18090285.	September 5, 2002	Nonattainment	September 5, 2002	
* * *	* * *	* * *	* * *	* * *
Fresno, Kern, Kings, Tulare, San Joaquin, Madera Counties:				
Indian Wells Valley Planning area	September 5, 2002	Nonattainment	September 5, 2002	Moderate
That portions of Kern County contained with Hydrologic Unit #18090205.				
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\* \* \* \* \*  
 [FR Doc. 02-19798 Filed 8-5-02; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 93**

[FRL-7256-3]

RIN 2060-AJ70

**Transportation Conformity Rule Amendments: Minor Revision of 18-Month Requirement for Initial SIP Submissions and Addition of Grace Period for Newly Designated Nonattainment Areas**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is promulgating two minor revisions to the transportation conformity rule. Transportation conformity is required by the Clean Air Act to ensure that federally supported highway and transit project activities are consistent with (“conform to”) the purpose of a state air quality implementation plan (SIP). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. EPA’s transportation conformity rule establishes the criteria and procedures for determining whether transportation activities conform to the state air quality plan.

First, today’s final rule will implement a Clean Air Act amendment that provides a one-year grace period before conformity is required in areas that are designated nonattainment for a given air quality standard for the first time. This Clean Air Act amendment was enacted on October 27, 2000. Although the grace period is already available to newly designated nonattainment areas as a matter of law, EPA is today incorporating the one-year conformity grace period into the conformity rule.

Second, today’s final rule will change the point by which a conformity determination must be made following a State’s submission of a control strategy implementation plan or maintenance plan for the first time (an “initial” SIP submission). Today’s rule requires conformity to be determined within 18 months of EPA’s affirmative finding that the SIP’s motor vehicle emissions budgets are adequate. Prior to today’s action, the conformity rule required a new conformity determination within 18 months of the submission of an initial SIP.

This change to the conformity rule better aligns when the 18-month requirement for conformity to initial SIP submissions is implemented, so that state and local agencies have sufficient time to redetermine conformity when initial SIPs are submitted and after EPA finds the SIP budgets adequate.

**EFFECTIVE DATE:** This final rule is effective on September 5, 2002.

**ADDRESSES:** Materials relevant to this rulemaking are in Public Docket

A-2001-12 located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in Room M-1500, Waterside Mall (ground floor). Ph: 202-260-7548. The docket is open and supporting materials are available for review between 8 a.m. and 5:30 p.m. on all federal government workdays. You may have to pay a reasonable fee for copying docket materials.

This final rule is available electronically from EPA’s Web site. See **SUPPLEMENTARY INFORMATION** for information on accessing and downloading files.

**FOR FURTHER INFORMATION CONTACT:** Angela Spickard, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105, *spickard.angela@epa.gov*, (734) 214-4283.

**SUPPLEMENTARY INFORMATION:** You can access and download today’s final rule on your computer by going to the following address on EPA’s Internet Web site: <http://www.epa.gov/otaq/traq> (Once at the site, click on “conformity.”).

**Regulated Entities**

Entities potentially regulated by the transportation conformity rule are those that adopt, approve, or fund transportation plans, programs, or projects under title 23 U.S.C. or title 49 U.S.C. Regulated categories and entities affected by this action include:

Category	Examples of regulated entities
Local government .....	Local transportation and air quality agencies, including metropolitan planning organizations.
State government .....	State transportation and air quality agencies.
Federal government .....	Department of Transportation (Federal Highway Administration (FHWA) and Federal Transit Administration (FTA)) and EPA.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this rule. This table lists the types of entities of which EPA is aware that could potentially be regulated by the conformity rule. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability requirements in 40 CFR 93.102 of the transportation conformity rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The contents of this preamble are listed in the following outline:

- I. Background
- II. One-year Conformity Grace Period for Newly Designated Nonattainment Areas
- III. Conformity Determinations for Initial SIP Submissions
- IV. What Comments That Addressed Topics Other Than Those Covered in This Rulemaking Did We Receive?
- V. How Does Today’s Final Rule Affect Conformity SIPs?
- VI. Administrative Requirements

**I. Background**

Transportation conformity is required under section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) to ensure that federally supported highway and transit

project activities are consistent with (“conform to”) the purpose of a state air quality implementation plan (SIP). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. EPA’s transportation conformity rule establishes the criteria and procedures for determining whether transportation activities conform to the state air quality plan.

EPA first published the transportation conformity rule on November 24, 1993 (58 FR 62188), and made subsequent minor revisions to the rule in 1995 (60