US EPA ARCHIVE DOCUMENT

shoreward from a line drawn from 57°54′58″ N, 152°29′35″ W to 57°55′04″ N, 152°30′00″ W and ending at 57°55′12″ N, 152°30′10″ W.

(b) *Effective period.* This section is effective from 12:01 a.m. Alaska Standard Time (AST) March 13, 2002, until 9 p.m. AST April 30, 2002. Blasting and dredging operations will occur in daylight hours only during this effective period.

(c) *Regulations.* The general regulations contained in 33 CFR 165.23 apply. The attending tug WALDO will broadcast a SECURITE message on VHF–FM channels 16 and 13 prior to each blasting operation and will be standing by on these channels for traffic advisory. All vessels must have permission of the Captain of the Port to enter the safety zones in this section and must monitor broadcasts by the tug WALDO while in the zones. All vessel traffic must be clear of Ouzinkie Harbor before blasting operations may occur.

Dated: February 27, 2002.

**W.J. Hutmacher,**

*Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.*

[FR Doc. 02–6359 Filed 3–15–02; 8:45 am]

**BILLING CODE 4910–15–U**

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 50

**[FRL–7159–8]**

### National Ambient Air Quality Standards for Ozone; Notice of Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The purpose of this document is to announce that EPA has scheduled a public meeting to solicit comments on various options to implement the 8-hour ozone national ambient air quality standard (NAAQS). The options contain EPA's preliminary views and are intended to initiate a dialogue with the public on approaches for implementing the 8-hour ozone NAAQS. The EPA is interested in hearing the views from interested stakeholders on the options that we've developed and their ideas on how to best implement the 8-hour ozone NAAQS consistent with the Supreme Court's decision in *Whitman* v. *American Trucking Association.* An overarching issue that EPA would like public input on is how EPA should address the Supreme Court's holding that subpart 2 of part D of title I of the Clean Air Act (CAA) applies for purposes of classifying areas under a revised ozone NAAQS.

**DATES:** The one-day meeting will be held from 9:00 a.m. to 5:00 p.m. (MST) on Wednesday, April 3, 2002, in Tempe, Arizona.

**ADDRESSES:** The meeting will be held at: Fiesta Inn Resort, 2100 S. Priest Drive, Tempe, Arizona 85282–1192.

**FOR FURTHER INFORMATION CONTACT:** For general information on the meeting, contact: Denise M. Gerth, U.S. EPA, Office of Air Quality Planning and Standards, C539–02, Research Triangle Park, NC 27711, phone (919) 541–5550, or e-mail: *gerth.denise@epa.gov.* To register for the meeting, please contact: Barbara Bauer, E. H. Pechan and Associates, Durham, NC, phone (919) 493–3144, extension 188, or e-mail: *barbara.bauer@pechan.com.*

**SUPPLEMENTARY INFORMATION:** On July 18, 1997, EPA revised the ozone NAAQS (62 FR 38856). At that time, EPA indicated it would implement the 8-hour ozone NAAQS under the less detailed requirements of subpart 1 of part D of title I of the CAA rather than more detailed requirements of subpart 2 requirements. Various industry groups and States challenged EPA's final rule promulgating the 8-hour ozone NAAQS in the U.S. Court of Appeals for the District of Columbia Circuit.[1] In May 1999, the Appeals Court remanded the ozone standard to EPA on the basis that EPA's interpretation of its authority under the standard-setting provisions of the CAA resulted in an unconstitutional delegation of authority. *American Trucking Assns., Inc.* v. *EPA*, 175 F.3d 1027, *aff'd*, 195 F.3d 4 (D.C. Cir. 1999). In addition, the Court held that EPA improperly interpreted the statute to provide for implementation of the 8-hour standard under subpart 1, but also determined that EPA could not implement a revised ozone standard under subpart 2. The EPA sought review of these two issues by the U.S. Supreme Court. In February 2001, the Supreme Court upheld the constitutionality of the air quality standard setting. *Whitman* v. *American Trucking Assoc.*, 121 S. Ct. 903. In addition, the Supreme Court held that EPA has authority to implement a revised ozone standard but that EPA could not ignore subpart 2 when implementing the 8-hour standard. Specifically, the Court noted EPA could not ignore the provisions of subpart 2 that ''eliminate[s] regulatory discretion'' allowed by subpart 1. After determining that EPA could not ignore the provisions of subpart 2, the Court went on to identify several portions of the classification scheme that are ''ill-fitted'' to the revised standard, but left it to EPA to develop a reasonable approach for implementation. Any implementation approach that EPA develops must address the requirements of the CAA, as interpreted by the Supreme Court.

The EPA has initiated a process to obtain stakeholder feedback on options the Agency is developing for implementation of the 8-hour ozone NAAQS. The EPA plans to issue a final rule on the implementation strategy prior to designating areas for the 8-hour ozone NAAQS. The implementation rule will provide specific requirements for State and local air pollution control agencies and tribes to prepare implementation plans to attain and maintain the 8-hour NAAQS. States with areas that are not attaining the 8-hour ozone NAAQS will have to develop—as part of its State implementation plan (SIP)—emission limits and other requirements to attain the NAAQS within the time frames set forth in the CAA.[2] Tribal lands that are not attaining the 8-hour ozone standard may be affected, and could voluntarily submit a tribal implementation plan (TIP), but would not be required to submit a TIP. However, in cases where a TIP is not submitted, EPA would have the responsibility for planning in those areas.

The EPA is holding this meeting in order to obtain stakeholder feedback regarding the options that EPA has developed as well as to listen to any new or different ideas that stakeholders may be interested in presenting. The following topics will be covered at the meeting: (1) Classifications and attainment dates; (2) designations and transport; (3) attainment demonstration issues and transportation planning; and (4) other general SIP issues. New Source Review (NSR) programs that accompany nonattainment designations will not be the subject of this meeting since the EPA is currently considering whether and how to change the NSR program regulations in other contexts. The EPA has placed a variety of materials regarding implementation options, and which will be the focus of the meeting, on the website: *www.epa.gov/ttn/rto/ozonetech/o3imp8hr/o3imp8hr.htm.* Additional material will be placed on the website as they are developed.

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[1] On July 18, 1997, EPA also promulgated a revised particulate matter (PM) standard (62 FR 38652). Litigation on the PM standard paralleled the litigation on the ozone standard and the court issued one opinion addressing both challenges.

[2] The CAA requires EPA to set ambient air quality standards and requires States to submit SIPs to implement those standards.

Anyone interested in attending the meeting should check the website for new material on a regular basis prior to the meetings.

The materials that are available on the website are also available at: Air and Radiation Docket and Information Center, Docket Number A–2001–31, U.S. EPA, 401 M Street, SW., Room M–1500 (Mail Code 6102), Washington, DC 20460. The docket is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

**Henry C. Thomas,**

*Acting Director, Office of Air Quality Planning and Standards.*

[FR Doc. 02–6491 Filed 3–15–02; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CA073–FON; FRL–7157–9]**

## Finding of Failure To Submit a Required State Implementation Plan for Particulate Matter, California—San Joaquin Valley

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to find that California failed to make a particulate matter (PM–10) nonattainment area state implementation plan (SIP) submittal required for the San Joaquin Valley Planning Area under the Clean Air Act (CAA or Act). The San Joaquin Planning Area is a serious PM–10 nonattainment area. Under the Act, states are required to submit SIPs providing for, among other things, reasonable further progress and attainment of the PM–10 national ambient air quality standards (NAAQS) in areas classified as serious. The State of California submitted a serious area plan for the San Joaquin Valley in 1997. On February 26, 2002, prior to action on the plan by EPA, the State withdrew the submittal from the Agency's consideration. As a result of that withdrawal, EPA is today finding that California failed to make the PM–10 nonattainment area SIP submittal required for the San Joaquin Valley Planning Area under the Act.

This action triggers the 18-month time clock for mandatory application of sanctions and 2-year time clock for a federal implementation plan (FIP) under the Act. This action is consistent with the CAA mechanism for assuring SIP submissions.

**EFFECTIVE DATE:** This action is effective as of February 28, 2002.

**FOR FURTHER INFORMATION CONTACT:** Celia Bloomfield, U. S. Environmental Protection Agency, Region 9, Air Division (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 947–4148.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*A. CAA Planning Requirements*

In 1990, Congress amended the Clean Air Act to address, among other things, continued nonattainment of the PM–10 NAAQS.[1] Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q (1991). On the date of enactment of the 1990 Clean Air Act Amendments, PM–10 areas, including the San Joaquin Valley planning area, meeting the qualifications of section 107(d)(4)(B) of the amended Act, were designated nonattainment by operation of law. See 56 FR 11101 (March 15, 1991). EPA codified the boundaries of the San Joaquin Valley PM–10 nonattainment area at 40 CFR 81.305.

Once an area is designated nonattainment for PM–10, section 188 of the CAA outlines the process for classifying the area and establishing the area's attainment deadline. In accordance with section 188(a), at the time of designation, all PM–10 nonattainment areas, including the San Joaquin Valley, were initially classified as moderate.

Section 188(b)(1) of the Act provides that moderate areas can subsequently be reclassified as serious before the applicable moderate area attainment date if at any time EPA determines that the area cannot ''practicably'' attain the PM–10 NAAQS by the moderate area attainment deadline, December 31, 1994. On January 8, 1993 (58 FR 3334, 3337), EPA made such a determination and reclassified the San Joaquin Valley nonattainment area as serious.

In accordance with section 189(b)(2) of the Act, SIP revisions for the San Joaquin Valley addressing the requirements for serious PM–10 nonattainment areas in section 189(b) and (c) of the Act were required to be submitted by August 8, 1994 and 1994 and February 8, 1997.

The serious area PM–10 requirements, as they pertain to the San Joaquin Valley nonattainment area, include: [2]

(a) A comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutant, here, PM–10 and its precursors (CAA section 172(c)(3));

(b) A demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 2001, or an alternative demonstration that attainment by that date would be impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA section 189(b)(1)(A)(i) and (ii));

(c) Quantitative milestones that are to be achieved every 3 years and that demonstrate reasonable further progress toward attainment by December 31, 2001 (CAA section 189(c)); and

(d) Provisions to assure that the best available control measures (BACM), including best available control technology (BACT), shall be implemented no later than four years after the reclassification of the area to a serious nonattainment area (CAA section 189(b)(1)(B).

*B. California's Serious Area PM–10 SIP Submittals for the San Joaquin Valley*

The State of California submitted on October 12, 1994 the ''San Joaquin Valley PM–10 BACM SIP Submittal'' to EPA as a proposed revision to the California PM–10 SIP. On July 17, 1997, CARB submitted to EPA the serious area ''PM–10 Attainment Demonstration Plan'' (Serious PM–10 Plan). The 1997 Plan incorporated and superseded the 1994 San Joaquin Valley PM–10 BACM SIP (1997 Plan, p. 1–1).

### II. EPA Actions Relating to the San Joaquin Valley PM–10 Nonattainment Area

As discussed further in section III below, EPA intended to propose to

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[1] EPA revised the NAAQS for PM–10 on July 1, 1987 (52 FR 24672), replacing standards for total suspended particulates with new standards applying only to particulate matter up to 10 microns in diameter (PM–10). At that time, EPA established two PM–10 standards. The annual PM–10 standard is attained when the expected annual arithmetic average of the 24-hour samples for a period of one year does not exceed 50 micrograms per cubic meter (ug/m$^3$). The 24-hour PM–10 standard of 150 ug/m$^3$ is attained if samples taken for 24-hour periods have no more than one expected exceedance per year, averaged over 3 years. See 40 CFR 50.6 and 40 CFR part 50, appendix K.

Breathing particulate matter can cause significant health effects, including an increase in respiratory illness and premature death.

[2] EPA has concluded that certain moderate area PM–10 requirements continue to apply after an area has been reclassified to serious. For a more detailed discussion of the planning requirements applicable to the San Joaquin Valley and the relationship between the moderate area and serious area requirements after reclassification of the area to serious, see, e.g., 65 FR 37324 (June 14, 2000).