significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. 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. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. 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 annual costs to State, local, or tribal governments in the aggregate; or to 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.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, sulfur oxides.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 4, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–6507 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA/AZ 211–0126 EC; FRL–6235–6]

Approval and Promulgation of State Implementation Plans; California and Arizona State Implementation Plan Revisions: Maricopa County, Arizona; Antelope Valley Air Pollution Control District, San Diego County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA is approving revisions to the Arizona and California State Implementation Plans (SIP) which concern the control of emergency air episodes.

The intended effect of this action is to protect the public from sudden and dangerous emissions of criteria pollutants in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules section of this **Federal Register**, the EPA is approving the states' SIP submittals as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, 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. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by April 19, 1999.

ADDRESSES: Comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, California 95812.

Arizona Department of Environmental Quality, 3003 North Central Avenue, Phoenix, Arizona 85012.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, Arizona 85004–1942.

Antelope Valley Air Pollution Control District, 315 West Pondera Street, Lancaster, California 93534.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, California 92123–1096.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, California 93721.

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Air Rulemaking [AIR–4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION: This document concerns Maricopa County, Arizona Rule 600—Emergency Episodes, submitted to EPA on January 4, 1990 by the Arizona Department of Environmental Quality; Antelope Valley APCD, Rule 701—Air Pollution Emergency Contingency Actions, submitted to EPA on June 23, 1998; San Diego County Air Pollution Control District Rule 127—Episode Criteria Levels, Rule 128—Episode Declaration, and Rule 130—Episode Actions, submitted to EPA on January 28, 1992; San Joaquin Valley Unified APCD Rule 6010—General Statement, Rule 6020—Applicable Areas, Rule 6030—Episode Criteria Levels, Rule 6040—Episode Stages, Rule 6050—Division of

Responsibility, Rule 6060—Administration of Emergency Program, Rule 6070—Advisory of High Air Pollution Potential, Rule 6080—Declaration of Episode, Rule 6081—Episode Action—Health Advisory, Rule 6090—Episode Action Stage 1: (Health Advisory-Alert), Rule 6100—Episode Action Stage 2: (Warning), Rule 6110—Episode Action Stage 3: (Emergency), Rule 6120—Episode Termination, Rule 6130—Stationary Source Curtailment Plans and Traffic Abatement Plans, Rule 6140—Episode Abatement Plan, and Rule 6150—Enforcement, submitted to EPA on March 3, 1997; Ventura County APCD—Regulation VIII—Emergency Action with Rule 150—General, Rule 151—Episode Criteria, Rule 152—Episode Notification Procedures, Rule 153—Health Advisory Episode Actions, Rule 154—Stage 1 Episode Actions, Rule 155—Stage 2 Episode Actions, Rule 156—Stage 3 Episode Actions, Rule 157—Air Pollution Disaster, Rule 158—Source Abatement Plans, and Rule 159—Traffic Abatement Procedures were submitted to EPA on January 28, 1992, by the California Air Resources Board. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: February 4, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–6178 Filed 3–17–99; 8:45am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–010–0001, FRL–6309–8]

Classification of the San Francisco Bay Area Ozone Nonattainment Area for Congestion Mitigation and Air Quality (CMAQ) Improvement Program Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 10, 1998 (63 FR 37258), EPA redesignated the San Francisco Bay Area from maintenance to nonattainment for the federal one-hour ozone standard. The redesignation was based on subpart 1 of the Clean Air Act (CAA), which does not require EPA to assign a nonattainment classification. Inadvertently, EPA's action under the CAA affected how the Bay Area would be treated under a separate, transportation-related statute, the Transportation Equity Act for the 21st Century (TEA 21). Specifically, the Congestion Mitigation and Air Quality Improvement Program (CMAQ) in TEA 21 appropriates funding according to an area's CAA nonattainment classification. The purpose of this proposed rule is to assign the Bay Area a nonattainment classification for the federal one-hour ozone standard for CMAQ purposes only so that the Bay Area can receive CMAQ funding commensurate with the severity of its air pollution problem.

DATES: Comments on this proposed action must be received in writing by April 19, 1999.

ADDRESSES: Comments should be addressed to the contact listed below: Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

A copy of this proposed rule is available in the air programs section of EPA Region 9's website, http://www.epa.gov/region09/air. The docket for this rulemaking is available for inspection during normal business hours at EPA Region 9, Planning Office, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. A reasonable fee may be charged for copying parts of the docket. Please call (415) 744–1249 for assistance.

FOR FURTHER INFORMATION CONTACT: Celia Bloomfield (415) 744–1249, Planning Office (AIR–2), Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background

The San Francisco Bay Area is the only area in the country that was initially designated nonattainment for the federal one-hour ozone standard, redesignated to attainment, and then redesignated back to nonattainment (40 CFR 81.305, March 3, 1978; 60 FR 27028, May 22, 1995; 63 FR 3725, July 10, 1998). In redesignating the Bay Area back to nonattainment, EPA looked at the longstanding general nonattainment provisions of subpart 1 of the CAA as well as the subpart 2 provisions that were added as part of the 1990 Amendments. EPA concluded, based on a number of legal and policy reasons described at length in the proposed and final redesignation actions, that the Act is best interpreted as placing the Bay Area under subpart 1.[1] Because the Bay Area was redesignated under subpart 1, EPA did not assign it a subpart 2 classification. As a result, the Bay Area became the only ozone nonattainment area in the country without a classification for the federal one-hour ozone standard.

At approximately the same time as the redesignation action, the subpart 2 classifications were incorporated into the apportionment formula for CMAQ funding under TEA 21 (section 104(b)(2) of Title 23, United States Code). Areas with nonattainment classifications received a weighting factor based on the severity of air pollution, while areas without a classification did not. The Federal Highway Administration (FHWA) initially stated that ''Since San Francisco will no longer have an ozone classification, under the law, this population can no longer be the basis for the apportionment formula.''[2] However, after additional review, FHWA determined that ''Because the EPA classified the Bay Area as nonattainment for ozone but chose not to assign a severity classification, we have decided to give the Bay Area a weighting factor equivalent to a submarginal ozone nonattainment classification.''[3]

Despite FHWA's willingness to treat the Bay Area as submarginal for CMAQ purposes, state, local, and federal authorities in the area remained concerned that CMAQ funding would be inadequate in relation to the Bay Area's air quality situation. According to the CMAQ apportionment formula, submarginal areas, those where ozone concentration levels are under .121 parts per million measured over three years, receive an apportionment formula weighting factor of 0.8. Weighting factors are higher for areas with more severe air pollution problems. Since ozone levels in the Bay Area registered .138 parts per million for the three-year period 1995–97, the more appropriate weighting factor for the Bay Area is the one used for moderate nonattainment areas, a weighting factor of 1.1.

II. EPA Action

EPA is today proposing to classify the Bay Area pursuant to section 172(a) as moderate for CMAQ purposes only, and the classification is intended only in relation to the area's treatment under CMAQ. This classification is authorized by section 172(a)(1)(A) of subpart 1 of the Act, which states that ''the Administrator may classify the area for

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[1] For a complete analysis of why EPA was redesignated under subpart 1 and not subpart 2, please refer to the proposed and final rulemakings on the redesignation (62 FR 66578, December 19, 1997; 63 FR 3725, July 10, 1998)

[2] Memo from Jim Shrouds, FHWA, to Nancy Sutley, EPA, dated June 25, 1998.

[3] Letter from Kenneth R. Wykle, Administrator, FHWA, to the Honorable George Miller, House of Representatives, dated August 7, 1998.