DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 300
[REG—134923–07]
RIN 1545–BG88
User Fees Relating to Enrollment To Perform Actuarial Services; Hearing
AGENCY: Internal Revenue Service (IRS), Treasury.
ACTION: Cancellation of notice of public hearing on proposed rulemaking.
SUMMARY: This document cancels a public hearing on proposed regulations relating to user fees for the initial and renewed enrollment to become an enrolled actuary.
DATES: The public hearing, originally scheduled for November 26, 2007, at 10 a.m., is cancelled.
FOR FURTHER INFORMATION CONTACT: Richard A. Hurst of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), at Richard.A.Hurst@irscounsel.treas.gov.
SUPPLEMENTARY INFORMATION: A notice of public hearing that appeared in the Federal Register on October 31, 2007 (72 FR 61583), announced that a public hearing was scheduled for November 26, 2007, at 10 a.m., in room 3716, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is under sections 7 and 8 of the Internal Revenue Code.

The public comment period for these regulations expires on November 30, 2007. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, November 20, 2007, no one has requested to speak. Therefore, the public hearing scheduled for November 26, 2007, is cancelled.
LaNita Van Dyke,
Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).
[FR Doc. E7–22893 Filed 11–21–07; 8:45 am]
BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 81
Determination of Nonattainment and Reclassification of the Imperial County Nonattainment Area: 8-Hour Ozone
AGENCY: Environmental Protection Agency (EPA).
ACTION: Proposed rule.
SUMMARY: EPA is proposing to find that the Imperial County marginal 8-hour ozone nonattainment area has failed to attain the 8-hour ozone national ambient air quality standard (NAAQS or standard) by June 15, 2007, the attainment deadline set forth in the Clean Air Act (CAA) and Code of Federal Regulations (CFR) for marginal nonattainment areas. If EPA finalizes this finding, the Imperial County area will be reclassified, by operation of law, as a moderate 8-hour ozone nonattainment area. The moderate area attainment date for the Imperial County area would then be as expeditiously as practicable but no later than June 15, 2010. Once reclassified, California must submit State Implementation Plan (SIP) revisions that meet the 8-hour ozone nonattainment requirements for moderate areas as required by the CAA. In this action, EPA is also proposing the schedule for the State’s submittal of the SIP revisions required for moderate areas once the area is reclassified.
DATES: Comments must be received on or before December 24, 2007.
ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–2007–OAR–1109 by one of the following methods:
1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: priselac.adrienne@epa.gov.
4. Mail or deliver: Adrienne Priselac (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.
Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the www.regulations.gov or e-mail.
www.regulations.gov is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Adrienne Priselac, EPA Region IX, (415) 972–3285. priselac.adrienne@epa.gov.
SUPPLEMENTARY INFORMATION: Throughout this document ‘‘we,’’ ‘‘us,’’ and ‘‘our’’ refer to EPA.

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I. What is the background for this proposed action?
A. What are the National Ambient Air Quality Standards?

The CAA requires EPA to establish a NAAQS for pollutants that “may reasonably be anticipated to endanger public health and welfare” and to develop a primary and secondary
Thus, a computed 3-year average ozone concentration of 0.085 ppm is the smallest value that is greater than 0.08 ppm.

The value of 0.085 ppm can also be expressed as 85 parts per billion (ppb).

C. What is a SIP and how does it relate to the NAAQS for 8-hour ozone?

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the NAAQS established by EPA. Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally-enforceable SIP. Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive. They may contain state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

D. What is the Imperial County nonattainment area, and what is its current 8-hour ozone nonattainment classification?

The Imperial County 8-hour ozone nonattainment area is located in the southeastern corner of California. It has borders with Mexico to the south, Arizona to the east, San Diego County to the west, and the Coachella Valley to the north. The local jurisdiction that is responsible for air pollution control is the Imperial County Air Pollution Control District (ICAPCD). For areas subject to Subpart 2 of the CAA, such as the Imperial County nonattainment area, the maximum period for attainment runs from the effective date of designations and classifications for the 8-hour ozone NAAQS (69 FR 23858, April 30, 2004) and will be the same periods as provided in Table 1 of CAA Section 181(a): Marginal—3 years; Moderate—6 years; Serious—9 years, Severe—15 or 17 years; and Extreme—20 years (40 CFR 51.903(a)). The effective date of designations and classifications for the 8-hour ozone NAAQS was June 15, 2004 (69 FR 23951, April 30, 2004).

The Imperial County area was designated nonattainment for the 8-hour ozone standard on April 30, 2004, and classified “marginal” based on a 2001–2003 design value of 91 (ppb) with a maximum attainment date of June 15, 2007 (69 FR 23858). The design value of an area, which characterizes the severity of the air quality concern, is represented by the annual fourth-highest daily maximum 8-hour average ozone concentration measured at each monitor averaged over any three-year period.

E. What are the CAA provisions regarding determinations of nonattainment and reclassifications?

Section 181(b)(2) prescribes the process for making determinations upon failure of an ozone nonattainment area to attain by its attainment date, and for reclassification of an ozone nonattainment area. Section 181(b)(2)(A) of the Act requires that we determine, based on the area’s design value (as of the attainment date), whether the area attained the ozone standard by that date. For marginal, moderate, and serious areas, if EPA finds that the nonattainment area has failed to attain the ozone standard by the applicable attainment date, the area is reclassified by operation of law to the higher of (1) the next higher classification for the area, or (2) the classification applicable to the area’s design value as determined at the time of the required Federal Register notice. Section 181(b)(2)(B) requires EPA to publish in the Federal Register a notice identifying any area that has failed to attain by its attainment date and the resulting reclassification.

II. What is EPA’s evaluation of the Imperial County area’s 8-hour ozone data?

We make attainment determinations for ozone nonattainment areas using available quality-assured air quality data. Within the Imperial County area, ground-level ozone is measured at 6 monitors throughout the County. In recent years, the El Centro and Westmorland monitors have measured some of the highest 8-hour average ozone concentrations in the Imperial County area. For example, the fourth-highest daily maximum readings for 2004, 2005, and 2006 at the El Centro monitor were 79, 86, and 91 ppb, respectively. The fourth-highest daily maximum readings for 2004, 2005, and 2006 at the Westmorland monitor were 79, 90, and 86 ppb, respectively. For the Imperial County ozone nonattainment area, the attainment determination is based on 2004–2006 air quality data. The area has a 2004–2006 design value of 85 ppb. Therefore, pursuant to section 181(b)(2) of the CAA, we find that the Imperial County area did not attain the 8-hour ozone NAAQS by the June 15, 2007, deadline for marginal areas.
Under Sections 172(a)(2)(C) and 181(a)(5) of the CAA, an area can qualify for up to two one-year extensions of its attainment date based on the number of exceedances in the attainment year and if the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan. For the 8-hour ozone standard, if an area’s 4th highest daily 8-hour ozone average in the attainment year is 84 ppb or less (40 CFR 51.907), the area is eligible for the first of up to two one-year attainment date extensions. The attainment year is the year immediately preceding the nonattainment area’s attainment date. For Imperial County the attainment year is 2006. In 2006, the area’s 4th highest daily 8-hour ozone average value was 91 ppb. Based on this information, the Imperial County area currently does not qualify for a one-year extension of the attainment date.

Section 181(b)(2)(A) of the Act provides that, when we find that an area failed to attain by the applicable date, the area is reclassified by operation of law to the higher of (1) the next higher classification or (2) the classification law as applicable attainment date of June 15, 2007.

III. What action is EPA proposing?
A. Determination of Nonattainment, Reclassification of Imperial County Nonattainment Area and New Attainment Date

Pursuant to section 181(b)(2), EPA is proposing to find that the Imperial County area has failed to attain the 8-hour ozone NAAQS by the June 15, 2007, attainment deadline prescribed under the CAA for marginal ozone nonattainment areas. If EPA finalizes this finding and it takes effect, the Imperial County area will be reclassified by operation of law from marginal nonattainment to moderate nonattainment. Moderate areas are required to attain the standard “as expeditiously as practicable,” but no later than 6 years after designation, or June 15, 2010. The “as expeditiously as practicable” attainment date will be determined as part of the action on the required SIP submittal demonstrating attainment of the 8-hour ozone standard. EPA is proposing a schedule by which California will submit the SIP revisions necessary for the proposed reclassification to moderate nonattainment of the 8-hour ozone standard.

B. Proposed Date for Submitting a Revised SIP for the Imperial County Area

EPA must address the schedule by which California is required to submit a revised SIP. When an area is reclassified, we have the authority under section 182(i) of the Act to adjust the Act’s submittal deadlines for any new SIP revisions that are required as a result of the reclassification. Pursuant to 40 CFR 51.908(d), for each nonattainment area, a state must provide for implementation of all control measures needed for attainment no later than the beginning of the “attainment year ozone season.” The “attainment year ozone season” is defined as the ozone season immediately preceding a nonattainment area’s attainment date (40 CFR 51.900(g)). The “ozone season” in a given year for an ozone nonattainment area is defined as the ozone monitoring season shown for the state in 40 CFR Part 58, Appendix D, section 4.1, Table D–3 (40 CFR 51.900(a) and 71 FR 61236, October 17, 2006). The ozone monitoring season for all of California, including Imperial County, is the full calendar year, from January through December.

A moderate 8-hour ozone nonattainment area must attain the ozone NAAQS as expeditiously as practicable, but no later than June 15, 2010 (40 CFR 51.903). As such, the attainment year ozone season for Imperial County is the ozone season in calendar year 2009, which begins on January 1. EPA therefore proposes to require a revised SIP submittal for the Imperial County moderate nonattainment area as expeditiously as practicable, but no later than December 31, 2008.

A revised SIP must include the following moderate area requirements: (1) An attainment demonstration (40 CFR 51.908), (2) provisions for reasonably available control technology and reasonably available control measures (40 CFR 51.912), (3) reasonable further progress reductions in emissions (40 CFR 51.910), (4) contingency measures to be implemented in the event of failure to meet a milestone or attain the standard (CAA 172(c)(9)), and (5) NOX and VOC emission offsets of 1.15 to 1 for major source permits (40 CFR 51.165(a)). See also the requirements for moderate

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### TABLE 1.—IMPERIAL COUNTY AREA FOURTH HIGHEST 8-HOUR OZONE CONCENTRATIONS AND DESIGN VALUES (PPB)¹

<table>
<thead>
<tr>
<th>Site</th>
<th>4th highest daily max</th>
<th>Design value 3 year average (2004–2006)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2004</td>
<td>2005</td>
</tr>
<tr>
<td>Calexico-Grant (06–025–0004)</td>
<td>63</td>
<td>80</td>
</tr>
<tr>
<td>Calexico-Ethel (06–025–0005)</td>
<td>72</td>
<td>82</td>
</tr>
<tr>
<td>Calexico-East (06–025–0006)</td>
<td>74</td>
<td>77</td>
</tr>
<tr>
<td>El Centro (06–025–1003)</td>
<td>79</td>
<td>86</td>
</tr>
<tr>
<td>Westmorland (06–025–4003)</td>
<td>73</td>
<td>90</td>
</tr>
<tr>
<td>Niland (06–025–4004)</td>
<td>75</td>
<td>72</td>
</tr>
</tbody>
</table>

¹Unlike the 1-hour ozone standard, design value calculations for the 8-hour ozone standard are based on a rolling three-year average of the annual 4th highest values (40 CFR Part 50, Appendix I).
ozone nonattainment areas set forth in
CAA section 182(b).  

IV. Proposed Action

Pursuant to CAA section 181(b)(2),
EPA is proposing to find that the
Imperial County marginal 8-hour ozone
area has failed to attain the 8-hour
ozone NAAQS by June 15, 2007. If EPA
finalizes its proposal, the area will be
by operation of law be reclassified as a
moderate 8-hour ozone nonattainment
area. Pursuant to section 182(f) of the
CAA, EPA is also proposing the schedule
for submittal of the SIP revision
required for moderate areas once the
area is reclassified. We propose to
require that this SIP revision be
submitted as expeditiously as
practicable, but no later than December
31, 2008.

V. Statutory and Executive Order
Reviews

A. Executive Order 12866, Regulatory
Planning and Review

This action is not a “significant
regulatory action” under the terms of
Executive Order (EO) 12866 (58 FR
51735, October 4, 1993) and is therefore
not subject to review under the EO. The
Agency has determined that the finding
of nonattainment would result in none
of the effects identified in the Executive
Order. Under section 181(b)(2) of the
CAA, determinations of nonattainment
are based upon air quality
considerations and the resulting
reclassifications must occur by
operation of law.

B. Paperwork Reduction Act

This rule does not impose an
information collection burden under the
provisions of the Paperwork Reduction
Act, 44 U.S.C. 3501 et seq. This
proposed action to reclassify the
Imperial County area as a moderate
ozone nonattainment area and to adjust
applicable deadlines does not establish
any new information collection burden.
Burden means the total time, effort, or
financial resources expended by persons
to generate, maintain, retain, or disclose
or provide information to or for a
Federal agency. This includes the time
needed to review instructions; develop,
acquire, install, and utilize technology
and systems for the purposes of
collecting, validating, and verifying
information, processing and

maintaining information, and disclosing
and providing information; adjust the
existing ways to comply with any
previously applicable instructions and
requirements; train personnel to be able
to respond to a collection of
information; search data sources;
complete and review the collection of
information; and transmit or otherwise
disclose the information. An agency
may not conduct or sponsor, and a
person is not required to respond to a
collection of information unless it
displays a currently valid OMB control
number. The OMB control numbers for
EPA’s regulations in 40 CFR are listed in

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)
generally requires an agency to prepare
a regulatory flexibility analysis of any
rule subject to notice and comment
rulemaking requirements under the
Administrative Procedures Act or any
other statute unless the agency certifies
the rule will not have a significant
economic impact on a substantial
number of small entities. Small entities
include small businesses, small
organizations, and small governmental
jurisdictions.

For purposes of assessing the impacts
of this action on small entities, small
town is defined as: (1) A small business
that is a small industrial entity as
defined in the U.S. Small Business
Administration (SBA) size standards
(see 13 CFR part 121); (2) a small
governmental jurisdiction that is a
government of a city, county, town,
school district or special district with a
population of less than 50,000; and (3)
a small organization that is any not-for-
profit enterprise which is independently
owned and operated and is not
dominant in its field. Determinations of
nonattainment and the resulting
reclassification of nonattainment areas
by operation of law under section
181(b)(2) of the CAA do not in and of
themselves create any new
requirements. Instead, this rulemaking
only makes a factual determination, and
does not directly regulate any entity.

After considering the economic impacts
of today’s action on small entities, I
certify that this rule will not have a
significant economic impact on a
substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates
Reform Act of 1995 (UMRA), Public
Law 104–4, establishes requirements for
Federal agencies to assess the effects of
their regulations on State, local, and
Tribal governments and the private
sector. Under section 202 of the UMRA,
EPA generally must prepare a written
statement, including a cost-benefit
analysis, for proposed and final rules
with “Federal mandates” that may
result in expenditures to State, local,
and Tribal governments, in the
aggregate, or to the private sector, of
$100 million or more in any one year.
Before promulgating an EPA rule for
which a written statement is needed,
section 205 of the UMRA generally
requires EPA to identify and consider a
reasonable number of regulatory
alternatives and adopt the least costly,
most cost-effective or least burdensome
alternative that achieves the objectives
of the rule. The provisions of section
205 do not apply when they are
inconsistent with applicable law.
Moreover, section 205 allows EPA to
adopt an alternative other than the least
costly, most cost-effective or least
burdensome alternative if the
Administrator publishes with the final
rule an explanation as to why that
alternative was not adopted. Before EPA
establishes any regulatory requirements
that may significantly or uniquely affect
small governments, including Tribal
governments, it must have developed
under section 203 of the UMRA a small
government agency plan. The plan must
provide for notifying potentially
affected small governments, enabling
officials of affected small governments
to have meaningful and timely input in
the development of EPA regulatory
proposals with significant Federal
intergovernmental mandates, and
informing, educating, and advising
small governments on compliance with
the regulatory requirements.

This proposed action does not include
an intergovernmental mandate within the
meaning of UMRA that may result in
expenditures of $100 million or more in
any one year by either State, local, or
Tribal governments in the aggregate or
to the private sector, and therefore, is
not subject to the requirements of
section 202 and 205 of the UMRA. Also,
EPA has determined that this rule
contains no regulatory requirements that
might significantly or uniquely affect
small governments and therefore, is not
subject to the requirements of section
203. EPA believes, as discussed
previously in this document, that the
finding of nonattainment is a factual
determination based upon air quality
considerations and that the resulting
reclassification of the area must occur
by operation of law. Thus, EPA believes
that the proposed finding does not
constitute a Federal mandate, as defined
in section 101 of the UMRA, because it
does not impose an enforceable duty on
any entity.

1 A vehicle inspection and maintenance (I/M)
program would normally be listed as a requirement
for an ozone moderate or above nonattainment area.
However, the Federal I/M Flexibility Amendments
of 1995 determined that urbanized areas with
populations less than 200,000 for 1990 are not
mandated to participate in the I/M program (60 FR
48027, September 18, 1995).
Children From Environmental Health 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 disproportionate effects 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. This action is not subject to Executive Order 13045 because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this rule present a disproportionate risk to children. This action merely proposes to determine that the Imperial Valley area has not attained the standard by the applicable attainment date, and to reclassify the Imperial Valley area as a moderate ozone nonattainment area and to adjust applicable deadlines. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 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.” This action does not have “Tribal implications” as specified in Executive Order 13175. This action merely proposes to determine that the Imperial County area has not attained by its applicable attainment date, and to reclassify the Imperial County area as a moderate ozone nonattainment area and to adjust applicable deadlines. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action merely proposes to determine that the Imperial County area did not attain the ozone NAAQS by the applicable attainment date, to reclassify the Imperial County area as a moderate ozone nonattainment area and to adjust applicable deadlines.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control.

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


Laura Yoshii,
Acting Regional Administrator, Region IX.
[FR Doc. E2–22868 Filed 11–21–07; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 455

[CMS–2271–P]

RIN 0938–AO97

Medicaid Integrity Program; Eligible Entity and Contracting Requirements for the Medicaid Integrity Audit Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.