days of its date, then the accrual period shall end on the date of the actual receipt by the Copyright Office.

* * * * *

■ 3. Amend § 201.17 by adding paragraph (i)(4) to read as follows:

§ 201.17 Statements of account covering compulsory licenses for secondary transmissions by cable systems.

* * * * *

(i) * * *

(4) Royalty fee payments submitted as a result of late or amended filings shall include interest. Interest shall begin to accrue beginning on the first day after the close of the period for filing statements of account for all late payments and underpayments of royalties for the cable statutory license occurring within that accounting period. The accrual period shall end on the date the electronic payment submitted by a cable operator is received. The accrual period shall end on the date the electronic payment submitted by a satellite carrier is received by the Copyright Office. In cases where a waiver of the electronic funds transfer requirement is approved by the Copyright Office, and royalties payments are either late or underpaid, the accrual period shall end on the date the payment is postmarked. If the payment is not received by the Copyright Office within five business days of its date, then the accrual period shall end on the date of the actual receipt by the Copyright Office.

* * * * *

■ 4. Revise § 201.28(l))(1) to read as follows:

§ 201.28 Statements of account for digital audio recording devices or media.

* * * * *

(l) * * *

(1) Royalty payments submitted as a result of late payments or underpayments shall include interest, which shall begin to accrue on the first day after the close of the period for filing Statements of Account for all late payments or underpayments of royalties for the digital audio recording obligation occurring within that accounting period. The accrual period shall end on the date the electronic payment submitted by the remitter is received. In cases where a waiver of the electronic funds transfer requirement is approved by the Copyright Office, and royalties payments are either late or underpaid, the accrual period shall end on the date the payment is postmarked. If the payment is not received by the Copyright Office within five business days of its date, then the accrual period shall end on the date of the actual receipt by the Copyright Office.

* * * * *

Dated: April 30, 2008.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. E8–11274 Filed 5–19–08; 8:45 am]

BILLING CODE 1410–30–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R09–OAR–2008–0435; FRL–8568–3]

Designation of Areas for Air Quality Planning Purposes; California; Ventura Ozone Nonattainment Area; Reclassification to Serious

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Effective June 15, 2004, EPA classified the Ventura County ozone nonattainment area as ''subpart 2/moderate'' for the 8-hour ozone standard with an attainment date of no later than June 15, 2010. On February 14, 2008, the California Air Resources Board submitted a request for reclassification of the Ventura County ozone nonattainment area from ''moderate'' to ''serious.'' Under section 181(b)(3) of the Clean Air Act, EPA is granting California's request for voluntary reclassification of the Ventura County ozone nonattainment area to ''serious'' in today's document.

DATES: *Effective Date:* This rule is effective on June 19, 2008.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2008–0435 for this action. The index to the docket is available electronically at *http://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., confidential business information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3957, *jesson.david@epa.gov*.

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

I. Reclassification of Ventura County to Serious Ozone Nonattainment

Effective June 15, 2004, we classified the Ventura County ozone nonattainment area under the Clean Air Act (''Act'' or CAA) as ''subpart 2/moderate'' for the 8-hour ozone national ambient air quality standard (NAAQS). See 69 FR 23858, at 23889 (April 30, 2004); and 40 CFR 81.305. Our classification of Ventura County as a ''moderate'' ozone nonattainment area establishes a requirement that the area attain the 8-hour ozone NAAQS as expeditiously as practicable, but no later than six years from designation, i.e., June 15, 2010. By letter dated February 14, 2008, the Executive Officer for the California Air Resources Board (CARB) submitted a request to reclassify three California areas designated nonattainment for the 8-hour ozone standard. Ventura was one of the three areas, and for the Ventura County ozone nonattainment area, CARB has requested reclassification from ''moderate'' to ''serious.'' We are acting on the request for Ventura in today's document. In a separate document, we will propose a schedule for required plan submittals for Ventura County under the new classification.

We will also act on the requests for the other two areas listed in CARB's February 14, 2008 letter, as well as the reclassification requests previously received from CARB for the San Joaquin Valley, South Coast, and Coachella Valley ozone nonattainment areas, in a separate document. We are deferring action on the State's reclassification requests for the five other areas to allow for notification to, and the opportunity for consultation with, the Indian tribes located within the five areas. No Indian tribes are located within Ventura County. In the separate document, we will also propose schedules for required plan submittals under the new classifications for these areas.

We are reviewing this request as one made pursuant to section 181(b)(3) of the Act which provides for ''voluntary reclassification'' and states: ''The Administrator shall grant the request of any State to reclassify a nonattainment area in that State in accordance with table 1 of subsection (a) of this section to a higher classification. The Administrator shall publish a notice in the **Federal Register** of any such request and of action by the Administrator

granting the request.'' While section 181 relates to the 1-hour ozone NAAQS, the same option exists with respect to the 8-hour ozone NAAQS. See 40 CFR 51.903(b) (''A State may request a higher classification for any reason in accordance with section 181(b)(3) of the CAA.''). We find that the plain language of section 181(b)(3) mandates that we approve such a request, and, as such, EPA is granting CARB's request for voluntary reclassification under section 181(b)(3) for the Ventura County ozone nonattainment area from ''moderate'' to ''serious'' in today's document. As a result of this action, Ventura County must now attain the 8-hour ozone NAAQS as expeditiously as practicable, but not later than nine years from designation, i.e., June 15, 2013.

EPA has determined that today's action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation where public notice and comment procedures are ''impracticable, unnecessary or contrary to the public interest.'' EPA has determined that public notice and comment for today's action is unnecessary because our action to approve voluntary reclassification requests under CAA section 181(b)(3) is nondiscretionary both in its issuance and in its content. As such, notice and comment rulemaking procedures would serve no useful purpose.

II. 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. EPA has determined that the voluntary reclassification would not result in any of the effects identified in Executive Order 12866 section 3(f). Voluntary reclassifications under section 181(b)(3) of the CAA are based solely upon request by the State and EPA is required under the CAA to grant them. These actions do not, in and of themselves, impose any new requirements on any sector of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classification, reclassification cannot be said to impose a materially adverse impact on State, local or tribal governments or communities. 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).

In addition, I certify 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.*). This action 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), because EPA is required to grant requests by States for voluntary reclassifications and such reclassifications in and of themselves do not impose any federal intergovernmental mandate. This 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).

Because EPA is required to grant requests by States for voluntary reclassifications and such reclassifications in and of themselves do not impose any federal intergovernmental mandate, this action also does not have Federalism implications as 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 does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

This 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. As discussed above, a voluntary reclassification under section 181(b)(3) of the CAA is based solely on the request of a State and EPA is required to grant such a request. In this context, it would thus be inconsistent with applicable law for EPA, when it grants a State's request for a voluntary reclassification, to use voluntary consensus standards. 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 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.*).

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 July 21, 2008. 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, Intergovernmental relations, National parks, Ozone, Wilderness areas.

Dated: May 13, 2008.

Wayne Nastri,

Regional Administrator, Region IX.

■ Part 81, 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.*

Subpart C—[Amended]

■ 2. Section 81.305 is amended in the table for ''California-Ozone (8-Hour Standard)'' by revising the entry for ''Ventura County, CA'' to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA-OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
* *	*	* *	*	*
Ventura County, CA:				
Ventura County (part)—That part of Ventura County excluding the Channel Islands of Anacapa and San Nicolas Islands.	.....	Nonattainment	6/19/08	Subpart 2/Serious.
Remainder of County	.....	Unclassifiable/Attainment.		
* *	*	* *	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.*
[1] This date is June 15, 2004, unless otherwise noted.

* * * * *

[FR Doc. E8–11294 Filed 5–19–08; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 22

[FWS–R9–MB–2008–0057; 91200–1231–9BPP–L2]

RIN 1018–AV11

Authorizations Under the Bald and Golden Eagle Protection Act for Take of Eagles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: These final regulations provide two mechanisms to authorize take under the Bald and Golden Eagle Protection Act (Eagle Act) by certain persons who have been authorized under the Endangered Species Act (ESA) to take bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*).

DATES: This rule goes into effect on June 19, 2008.

FOR FURTHER INFORMATION CONTACT: Eliza Savage, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mailstop 4107, Arlington, VA 22203–1610; or 703–358–2329.

SUPPLEMENTARY INFORMATION:

Background

The Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d) (Eagle Act) prohibits the take of bald eagles and golden eagles unless pursuant to regulations (and in the case of bald eagles, take can be authorized only under a permit). While the bald eagle was listed under the ESA (16 U.S.C. 1531 et seq.), we authorized incidental take of bald eagles through take statements under ESA section 7 and through section 10 incidental take permits (50 CFR 402, Subparts A and B; 50 CFR 17.22(b) and 17.32(b)). Those authorizations were issued with assurances that the Service would exercise enforcement discretion in relation to violations of the Eagle Act (16 U.S.C. 668–668d) and the Migratory Bird Treaty Act (16 U.S.C. 703–712) (MBTA). Since the bald eagle has been removed from the ESA's List of Endangered and Threatened Wildlife throughout most of its range (see 72 FR 37345, July 9, 2007 and 73 FR 23966, May 1, 2008), the prohibitions of the ESA no longer apply except to the Sonoran Desert nesting bald eagle population. However, the potential for human activities to violate Federal law by taking bald eagles (and golden eagles) remains under the prohibitions of the Eagle Act and the MBTA. The Eagle Act defines the ''take'' of an eagle to include a broad range of actions: ''pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb.'' ''Disturb'' is defined in our regulations at 50 CFR 22.3 as ''to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.'' Many actions that were considered likely to incidentally ''take'' (harm or harass) eagles under the ESA may also ''take'' eagles under the Eagle Act, as those terms have been defined by statute and regulation.

The ESA provides broad substantive and procedural protections for listed species but at the same time allows significant flexibility to permit activities that affect listed species. In particular, sections 7(b)(4) and 10(a)(1)(B) of the ESA provide that we may authorize the incidental take of listed wildlife in the course of otherwise lawful activities. Nationwide, since 2002, the Service issued an average of 52 incidental take statements per year that covered anticipated take of bald eagles under the ESA's section 7 (50 CFR 402, Subpart B). During that same 5-year period, we issued nine incidental take permits that included bald eagles under the ESA's section 10(a)(1)(B). A total of 126 such incidental take permits have been issued for bald eagles and 12 incidental take permits include golden eagles as covered, non-listed species (50 CFR 17.22(b) and 17.32(b)). The statutory and regulatory criteria for issuing those ESA authorizations included minimization, mitigation, or other conservation measures that also satisfied the statutory mandate under that Eagle Act that authorized take must be compatible with the preservation of the bald or golden eagle. Our practice was to provide assurances in each section 7 incidental take statement and section 10 permit that we would not refer the incidental take of a bald eagle for prosecution under the Eagle Act, if the take was in compliance with the terms and conditions of a section 7(b)(4) incidental take statement or the conditions of a section 10(a)(1)(B) incidental take permit. [1] Now that the

[1] Compliance with the conditions of a section 10(a)(1)(B) permit entails compliance with the terms of the associated Habitat Conservation Plan and Implementing Agreement (if applicable).