

## Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule is needed to correct the NVPZ, geographic jurisdiction limits represented in § 165.9(d) to reflect a recent amendment to 14 U.S.C. 91 by section 201 of the Coast Guard and Maritime Transportation Act of 2006.

A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1225, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

#### § 165.9 [Amended]

■ 2. In § 165.9, amend paragraph (d) by removing the term “3 nautical miles” and adding, in its place, the term “12 nautical miles”.

Dated: September 9, 2006.

**David Pekoske,**

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Response.

[FR Doc. E6–15295 Filed 9–14–06; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA–R03–OAR–2006–0485; FRL–8219–9]

### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the Huntington, WV Portion of the Huntington-Ashland 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area’s Maintenance Plan

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of West Virginia. The West Virginia Department of Environmental Protection (WVDEP) is requesting that the Huntington, West Virginia (Huntington) portion of the Huntington-Ashland, WV–KY area be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the State submitted a SIP revision consisting of a maintenance plan for Huntington that provides for continued attainment of the 8-hour ozone NAAQS for the next 12 years, until 2018. Concurrently, EPA is approving the maintenance plan as meeting the requirements of Clean Air Act (CAA) 175A(b) with respect to the 1-hour ozone maintenance plan update. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the 8-hour maintenance plan for Huntington for purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request and the maintenance plan revision to the West Virginia SIP in accordance with the requirements of the CAA.

**DATES:** *Effective Date:* This final rule is effective on October 16, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2006–0485. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

**FOR FURTHER INFORMATION CONTACT:** Amy Caprio, (215) 814–2156, or by e-mail at [caprio.amy@epa.gov](mailto:caprio.amy@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

On July 13, 2006 (71 FR 39618), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of West Virginia’s redesignation request and a SIP revision that establishes a maintenance plan for Huntington that sets forth how Huntington will maintain attainment of the 8-hour ozone NAAQS for the next 12 years. The formal SIP revision was submitted by the WVDEP on May 17, 2006. Other specific requirements of West Virginia’s redesignation request SIP revision for the maintenance plan and the rationale for EPA’s proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

#### II. Final Action

EPA is approving the State of West Virginia’s May 17, 2006 redesignation request and maintenance plan because the requirements for approval have been satisfied. EPA has evaluated West Virginia’s redesignation request, submitted on May 17, 2006, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that Huntington has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of the Huntington, West Virginia portion of the Huntington-Ashland area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for this area, submitted on May 17, 2006, as a revision to the West Virginia SIP. EPA is approving the maintenance plan for Huntington because it meets the requirements of section 175A and 175A(b) with respect to the 1-hour ozone maintenance plan update. EPA is

also approving the MVEBs submitted by West Virginia for this area in conjunction with its redesignation request. Huntington is subject to the CAA's requirements for basic ozone nonattainment areas until and unless it is redesignated to attainment.

### III. Statutory and Executive Order Reviews

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. 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)). This action approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this final 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.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This final 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 distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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), because it affects the

status of a geographical area, does not impose any new requirements on sources, or allow the state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, 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.

#### B. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### C. Petitions for Judicial Review

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 November 14, 2006. 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, to approve the redesignation request, maintenance plan and adequacy determination for MVEBs for Huntington, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

##### 40 CFR Part 81

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

Dated: September 6, 2006.

**W.T. Wisniewski,**

*Acting Regional Administrator, Region III.*

■ 40 CFR parts 52 and 81 are amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

#### Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for the 8-Hour Ozone Maintenance Plan, Huntington-Ashland, WV-KY Area at the end of the table to read as follows:

##### § 52.2520 Identification of plan.

\* \* \* \* \*  
(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
8-Hour Ozone Maintenance Plan for the Huntington-Ashland, WV-KY Area.	Cabell and Wayne Counties.	05/17/06	09/15/06 [Insert page number where the document begins].	.....

**PART 81—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401 *et seq.*  
 ■ 2. Section 81.349 is amended by revising the ozone table entry for the

Huntington-Ashland, WV-KY Area to read as follows:  
**§ 81.349 West Virginia.**  
 \* \* \* \* \*

**WEST VIRGINIA—OZONE**  
 [8-Hour standard]

Designated area	Designation <sup>a</sup>		Category/classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Huntington-Ashland, WV-KY Area:				
Cabell County .....	09/15/06	Attainment		
Wayne County .....	09/15/06	Attainment		

<sup>a</sup> Includes Indian country located in each county or area except otherwise noted.  
<sup>1</sup> This date is June 15, 2004, unless otherwise noted.

\* \* \* \* \*  
 [FR Doc. E6-15334 Filed 9-14-06; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2005-0459; FRL-8077-9]

**Endosulfan, Fenarimol, Imazalil, Oryzalin, Sodium Acifluorfen, Trifluralin, and Ziram; Tolerance Actions**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is revoking certain tolerances for the insecticide endosulfan; the fungicides fenarimol, imazalil, and ziram; and the herbicide trifluralin. Also, EPA is modifying certain tolerances for the insecticide endosulfan, the fungicides fenarimol and imazalil, and the herbicides sodium acifluorfen and trifluralin. EPA is not modifying tolerances for ziram. In addition, EPA is establishing new tolerances for the insecticide endosulfan, the fungicides fenarimol and imazalil, and the herbicides oryzalin and trifluralin. The regulatory actions in this document are part of the

Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).  
**DATES:** This regulation is effective September 15, 2006. However, certain regulatory actions will not occur until the date specified in the regulatory text. Objections and requests for hearings must be received on or before November 14, 2006, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).  
**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2005-0459. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The

Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.  
**FOR FURTHER INFORMATION CONTACT:** Kendra Tyler, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0125; e-mail address: [tyler.kendra@epa.gov](mailto:tyler.kendra@epa.gov).  
**SUPPLEMENTARY INFORMATION:**  
**I. General Information**  
**A. Does this Action Apply to Me?**  
 You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:  
 • Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.  
 • Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.  
 • Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.