

provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides 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 because it establishes a safety zone.

A draft “Environmental Analysis Check List” and a draft “Categorical Exclusion Determination” (CED) will be 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. 1226, 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.

■ 2. Add § 165.T11–056 to read as follows:

#### § 165.T11–056 Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, California.

(a) *Location*. One hundred yards to either water-side of the Fourth Street Bridge, encompassing the navigable waters, from the surface to the sea floor,

bounded by two lines; one line drawn from a point on the north shore of Mission Creek [37°46′29″ N, 122°23′36″ W] extending southeast to a point on the opposite shore [37°46′28″ N, 122°23′34″ W], and the other line drawn from a point on the north shore of Mission Creek [37°46′34″ N, 122°23′30″ W] extending southeast to a point on the opposite shore [37°46′33″ N, 122°23′28″ W] [Datum: NAD 83].

(b) *Regulations*. In accordance with the general regulations in § 165.23, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless specifically authorized by the Captain of the Port San Francisco, or his designated representative.

(c) *Effective period*. The safety zone will be in effect from 12:01 a.m. on January 1, 2006, to 11:59 p.m. on September 1, 2006. If the need for this safety zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of the safety zone and will announce that fact via Broadcast Notice to Mariners.

(d) *Enforcement*. The Captain of the Port will enforce this zone and may enlist the aid and cooperation of any Federal, State, county, or municipal agency to assist in the enforcement of the regulation. All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, or the designated on-scene patrol personnel. Patrol personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, federal, state, and local law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: December 21, 2005.

**William J. Uberti,**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco, California.*

[FR Doc. 06–83 Filed 1–4–06; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[EPA–R05–OAR–2005–IN–0010; FRL–8019–5]

#### Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the Vigo County Nonattainment Area to Attainment of the 8-Hour Ozone Standard

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

**ACTION:** Final rule.

**SUMMARY:** EPA is determining that the Vigo County 8-hour ozone nonattainment area has attained the 8-hour ozone National Ambient Air Quality Standard (NAAQS). EPA is approving a request from the State of Indiana, submitted on July 5, 2005 and supplemented on October 20, 2005 and November 4, 2005, to redesignate Vigo County from nonattainment to attainment for the 8-hour ozone NAAQS. EPA’s approval of the redesignation request is based on the determination that Vigo County and the State of Indiana have met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA), including the determination that Vigo County has attained the 8-hour ozone standard. In conjunction with this approval, EPA is approving the State’s plan for maintaining the 8-hour ozone NAAQS in Vigo County through 2015 as a revision to the Indiana State Implementation Plan (SIP). EPA also finds as adequate and approves the 2015 Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO<sub>x</sub>) Motor Vehicle Emission Budgets (MVEBs) for this area. **DATES:** This rule is effective on February 6, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2005–IN–0010. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, 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 <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation

Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886-6052 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052, [rosenthal.steven@epa.gov](mailto:rosenthal.steven@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the following, whenever “we,” “us,” or “our” are used, we mean the United States Environmental Protection Agency.

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- I. What Is the Background for This Rule?
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**I. What Is the Background for This Rule?**

EPA has determined that ground-level ozone is detrimental to human health. On July 18, 1997, the EPA promulgated an 8-hour ozone NAAQS (62 FR 38856) of 0.08 parts per million parts of air (0.08 ppm). This standard is violated in an area when any ozone monitor in the area records an average of the annual fourth-highest daily maximum 8-hour ozone concentrations equaling or exceeding 0.085 ppm over a three-year period. Ground-level ozone is not emitted directly by sources. Rather, emitted VOC and NO<sub>x</sub> react in the presence of sunlight to form ground-level ozone along with other secondary compounds. VOC and NO<sub>x</sub> are referred to as “ozone precursors.”

In accordance with section 107(d) of the CAA as amended in 1977, EPA designated Vigo County as an ozone nonattainment area for the 8-hour ozone NAAQS based on ozone data collected in this area during the 2001–2003 period. The **Federal Register** notice making this designation was signed on April 15, 2004, and was published on April 30, 2004 (69 FR 23857).

The Clean Air Act contains two sets of provisions—subpart 1 and subpart 2—that address planning and emission control requirements for nonattainment areas (both subparts are found in title I, part D of the CAA). Subpart 1 contains general, less prescriptive requirements for nonattainment areas governed by any NAAQS, and applies to all

nonattainment areas. Subpart 2 contains more specific requirements for certain ozone nonattainment areas, and applies to ozone nonattainment areas classified under section 181 of the CAA.

In the April 30, 2004 ozone designation rulemaking, EPA divided 8-hour ozone nonattainment areas into the categories of subpart 1 nonattainment and subpart 2 nonattainment based on their 8-hour ozone design values (*i.e.*, the three-year average annual fourth-highest daily maximum 8-hour ozone concentrations at the worst-case ozone monitoring sites in the designated areas) and their 1-hour ozone design values (*i.e.*, the fourth-highest daily maximum 1-hour ozone concentrations over the three-year period at the worst-case monitoring sites in the designated areas).<sup>1</sup> 8-hour ozone nonattainment areas with 1-hour ozone design values equaling or exceeding 0.121 ppm were designated as classified nonattainment areas (as nonattainment areas required to meet the requirements of subpart 2 of the CAA). All other 8-hour nonattainment areas were designated as “basic” nonattainment areas subject only to the requirements of subpart 1 of the CAA.

In the April 30, 2004 designation rulemaking, Vigo County was designated as nonattainment for the 8-hour ozone standard, and was identified as a subpart 1 basic nonattainment area. This designation was based on ozone data collected in Vigo County from the period of 2001–2003.

On July 5, 2005, the State of Indiana requested redesignation of Vigo County to attainment of the 8-hour ozone NAAQS based on ozone data collected during the period of 2002–2004. This request was supplemented with submittals dated October 20, 2005 and November 4, 2005. This redesignation request also included a 10-year ozone maintenance plan for Vigo County and the VOC and NO<sub>x</sub> MVEBs for Vigo County are based on emission projections in the ozone maintenance plan.

On November 23, 2005, EPA published a proposed rule (70 FR 70751), proposing to: (1) Determine that Vigo County has attained the 8-hour ozone NAAQS and to approve Indiana’s request to redesignate Vigo County to attainment of the 8-hour ozone NAAQS; (2) approve Indiana’s ozone maintenance plan for Vigo County; and (3) approve the 2015 VOC and NO<sub>x</sub>

<sup>1</sup> The 1-hour ozone standard, 0.12 ppm, has been replaced by the 8-hour ozone standard, with the 1-hour ozone standard being revoked on June 15, 2005.

MVEBs for Vigo County and notify the public that these MVEBs are adequate for purposes of transportation conformity. This proposed rule established a 30-day public comment period.

**II. What Comments Did We Receive on the Proposed Action?**

EPA provided a 30-day review and comment period on the proposal published in the **Federal Register** on November 23, 2005 (70 FR 70751). We received no comments on our proposed rulemaking.

**III. What Are Our Final Actions?**

EPA is making a determination that Vigo County has attained the 8-hour ozone NAAQS, and EPA is approving the redesignation of Vigo County from nonattainment to attainment for the 8-hour ozone NAAQS. After evaluating Indiana’s redesignation request, EPA has determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. The final approval of this redesignation request changes the official designation for Vigo County from nonattainment to attainment for the 8-hour ozone standard.

EPA is also approving the maintenance plan SIP revision for Vigo County. Approval of the maintenance plan is based on Indiana’s demonstration that the plan meets the requirements of section 175A of the CAA. Additionally, EPA is finding adequate and approving the 2015 MVEBs submitted by Indiana in conjunction with the redesignation request.

No comments were received on the proposed rule. Therefore, all proposed actions are being finalized here.

**IV. Statutory and Executive Order Review**

*Executive Order 12866: Regulatory Planning and Review*

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.

*Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a “significant regulatory action” under Executive Order 12866 or a “significant energy action,” 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).

#### *Regulatory Flexibility Act*

This action merely 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 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.*).

#### *Unfunded Mandates Reform Act*

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).

#### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

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).

#### *Executive Order 13132: Federalism*

This action also does not have Federalism implications because 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). Redesignation is an action that merely affects the status of a geographical area, and does not impose any new requirements on sources, or allows a state to avoid adopting or implementing additional requirements, and does not alter the relationship or distribution of power and responsibilities established in the Clean Air Act.

#### *Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

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.

#### *National Technology Transfer Advancement Act*

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 but 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.

#### *Environmental Justice*

Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agency actions by directing agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority and low-income populations. As explained elsewhere in this document (see responses to Comments 5 and 9), today’s action is designed to prevent violations of the health-based national ambient air quality standard. It does not result in the relaxation of control measures on existing sources and therefore will not cause emissions increases from those sources. Overall, as discussed in response to Comments 5 and 9, emissions in the area are projected to decline following the redesignation. Thus, today’s action will not have disproportionately high and adverse effects on any communities in the area, including minority and low-income communities.

#### *Paperwork Reduction Act*

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.*).

#### *Congressional Review Act*

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 March 6, 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 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

##### *40 CFR Part 81*

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

Dated: December 27, 2005.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations is 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 P—Indiana**

■ 2. Section 52.777 is amended by adding paragraph (dd) to read as follows:

**§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).**

\* \* \* \* \*

(dd) Approval—On July 5, 2005, Indiana submitted a request to redesignate Vigo County to attainment of the 8-hour ozone National Ambient Air Quality Standard. This request was supplemented with submittals dated

October 20, 2005 and November 4, 2005. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. Also included were motor vehicle emission budgets for use to determine transportation conformity in Vigo County. The 2015 motor vehicle emission budgets are 2.84 tons per day for VOC and 3.67 tons per day for NO<sub>x</sub>.

**INDIANA OZONE (8-HOUR STANDARD)**

**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 81.315 is amended by revising the entry for Terre Haute, IN: Vigo County in the table entitled “Indiana Ozone (8-Hour Standard)” to read as follows:

**§ 81.315 Indiana.**

\* \* \* \* \*

Designated area	Designation <sup>a</sup>		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Terre Haute, IN: Vigo County	2/06/06	Attainment .....	.....	.....

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