

Federalism

The Coast Guard has analyzed this temporary final rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this temporary final rule and concluded that, under figure 2-1, paragraph (34)(h) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a marine event are excluded under that authority.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section, § 100.35-T05-064 is added to read as follows:

§ 100.35-T05-064 Chesapeake Challenge, Patapsco River, Baltimore, Maryland.

(a) Definitions:

(1) *Regulated Area.* The waters of the Patapsco River enclosed by:

Latitude	Longitude
39° 15' 27.5" N	076° 33' 10.0" W, to
39° 13' 23.0" N	076° 31' 14.0" W, to
39° 12' 06.0" N	076° 29' 43.5" W, to
39° 12' 00.0" N	076° 29' 08.0" W, to
39° 11' 24.0" N	076° 29' 27.5" W, to
39° 11' 48.0" N	076° 30' 58.0" W, to
39° 14' 53.5" N	076° 34' 15.0" W, to
39° 15' 24.0" N	076° 33' 53.0" W, to
39° 15' 27.5" N	076° 33' 10.0" W

(2) *Curtis Bay South Spectator Anchorage Area.* The waters south of Curtis Bay Channel bounded by a line connecting the following points:

Latitude	Longitude
39° 13' 16.0" N	076° 32' 31.5" W, to
39° 13' 00.0" N	076° 32' 16.0" W, to
39° 12' 49.5" N	076° 32' 31.5" W, to
39° 13' 06.0" N	076° 32' 48.5" W, to
39° 13' 16.0" N	076° 32' 31.5" W

(3) *Curtis Bay North Spectator Anchorage Area.* The waters north of

Curtis Bay Channel bounded by a line connecting the following points:

Latitude	Longitude
39° 14' 00.0" N	076° 33' 18.5" W, to
39° 13' 33.0" N	076° 32' 50.0" W, to
39° 13' 20.5" N	076° 33' 13.5" W, to
39° 13' 37.0" N	076° 33' 40.0" W, to
39° 14' 00.0" N	076° 33' 18.5" W

(4) *Fort McHenry Spectator Anchorage Area.* The waters south of Hawkins Point bounded by a line connecting the following points:

Latitude	Longitude
39° 12' 26.5" N	076° 31' 39.0" W, to
39° 11' 48.0" N	076° 30' 58.0" W, to
39° 11' 40.0" N	076° 30' 33.0" W, to
39° 11' 16.5" N	076° 30' 46.5" W, to
39° 12' 19.5" N	076° 31' 50.5" W, to
39° 12' 26.5" N	076° 31' 39.0" W

All coordinates reference Datum NAD 1983.

(5) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(b) *Special Local Regulations:*

(1) All persons and/or vessels not authorized as participants or official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by Commander, Coast Guard Activities Baltimore.

(2) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated areas.

(3) The operator of any vessel in these areas shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(4) Spectator vessels may enter and anchor in the special spectator anchorage areas described in paragraph (a) of this section without the permission of the Patrol Commander. They shall use caution not to enter the regulated area. No vessel shall anchor within a tunnel, cable or pipeline area shown on a Government chart.

(c) *Effective Dates.* The regulated area described in paragraph (a)(1) of this section and the spectator anchorage areas described in paragraphs (a)(2) through (a)(4) of this section are effective from 1 p.m. EDT (Eastern

Daylight Time) to 4 p.m., EDT on July 24 and 25, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 99-18702 Filed 7-21-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA-010-0002, FRL-6401-6]

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: Final rule.

SUMMARY: On July 10, 1998 (63 FR 37258), EPA redesignated the San Francisco Bay Area from maintenance to nonattainment, without a classification, for the federal one-hour ozone standard. By not assigning a classification, EPA inadvertently affected the Bay Area's funding appropriation under the Transportation Equity Act for the 21st Century (TEA 21), Congestion Mitigation and Air Quality Improvement Program (CMAQ). On March 18, 1999, EPA proposed to assign the Bay Area a nonattainment classification for the federal one-hour ozone standard for CMAQ purposes only so that the Bay Area would be able to receive CMAQ funding commensurate with the severity of its air pollution problem (65 FR 13383). After providing a 30-day extension to the public comment period (64 FR 24123, May 5, 1999), EPA is today finalizing the classification.

EFFECTIVE DATE: This action is effective on August 23, 1999.

ADDRESSES: A copy of this document 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). The final redesignation to nonattainment was made without assigning the Bay Area a nonattainment classification. By not assigning a classification, EPA inadvertently affected the Bay Area's funding appropriation under TEA 21's CMAQ program. According to the apportionment formula for CMAQ funding (section 104(b)(2) of Title 23, United States Code), areas with nonattainment classifications receive a weighting factor based on the severity of air pollution, while areas without a classification do not. The result was that, while the Bay Area has a design value equivalent to a moderate nonattainment area, it was not receiving the level of CMAQ funding appropriate to address its air quality problem. On March 18, 1999 (65 FR 13383), EPA proposed to remedy this situation by assigning the Bay Area a classification of "moderate" for CMAQ purposes only.

II. Summary of Public Comments and EPA Response

EPA received numerous letters supporting the classification and one adverse comment. The Santa Barbara County Association of Governments expressed concern that EPA's action would set a precedent enabling nonattainment areas to benefit financially from a nonattainment classification without having to comply with the planning requirements associated with that classification.

Today's action will not set such a precedent, as the Bay Area is in a unique situation. The Bay Area is the only area in the country to attain the ozone standard, be redesignated to attainment, fall out of attainment, and be redesignated back to nonattainment. The Bay Area is also the only area in the country to be redesignated nonattainment without a classification. Finally, the Bay Area is the only nonattainment area in the country that is receiving CMAQ funding at a level below what was intended for areas with similar air quality problems.

Further, while EPA acknowledges that the plan submittal elements associated with the Bay Area redesignation have been streamlined, EPA is not enabling the Bay Area to evade planning

requirements. The Bay Area is required to adopt and implement control measures sufficient to attain the federal one-hour ozone standard; the Bay Area must adopt and implement contingency measures if the standard is not attained; and the Bay Area is required to use the moderate area offset thresholds for new source review. Furthermore, having been classified moderate nonattainment previously, the Bay Area is already complying with Inspection and Maintenance requirements for moderate areas.

III. Final EPA Action

EPA is today classifying the Bay Area pursuant to section 172(a) as moderate for the federal one-hour ozone standard 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 the purpose of applying an attainment date pursuant to paragraph (2), and for other purposes." EPA is assigning a classification of moderate because it reflects the severity of the Bay Area's nonattainment problem.

IV. Administrative Requirements**A. Executive Orders 12866 and 13045**

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to

provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments are "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not 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.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This classification action under subpart 1, section 172(a)(1)(A) of the Clean Air Act does not create any new requirements. Therefore, the Administrator certifies that it does not have a significant impact on any small entities affected.

E. 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 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 this final action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

F. 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).

G. 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 September 20, 1999. 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, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

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

Dated: July 15, 1999.

Felicia Marcus,

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.*

2. In § 81.305, the table for California—Ozone, is amended by revising the entry for the San Francisco Bay Area to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
San Francisco—Bay Area	August 10, 1998	Nonattainment	August 10, 1998/	Not classified/Mod-
			August 23, 1999	erate under 23
Alameda County .....	.....do .....	.....do .....	.....do	U.S.C. § 104(b)(2).
Contra Costa County .....	.....do .....	.....do .....	.....do	Do.
Marin County .....	.....do .....	.....do .....	.....do	Do.
Napa County .....	.....do .....	.....do .....	.....do	Do.
San Francisco County .....	.....do .....	.....do .....	.....do	Do.
Santa Clara County .....	.....do .....	.....do .....	.....do	Do.
San Mateo County .....	.....do .....	.....do .....	.....do	Do.
Solano County (part) .....	.....do .....	.....do .....	.....do	Do.
Sonoma County (part)dododo	Do.

¹This date is November 15, 1990, unless otherwise noted.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[OPPTS-62130B; FRL-6053-9]

Lead; Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint hazards in Housing; Correction to Reflect OMB Approval of the Information Collection Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is confirming that the Office of Management and Budget approved information collection requirements contained in 40 CFR part 745, subpart F. An "Effective Date Note," which indicates that the information collection requirements contained in each section will not become effective until approved by the Office of Management and Budget (OMB), was automatically added by the Office of the Federal Register (OFR). The OFR added this statement to the CFR