

## Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this section to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The waters surrounding the west side of Spectacle Island are used by commuter vessels, commercial fishing vessels, commercial lobster vessels and recreational vessels. Due to the minimal time delay caused by the requirement to proceed at a no-wake speed, this regulation is not expected to have a significant impact on these vessels.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and (2) governmental jurisdictions with populations of less than 50,000.

For reasons set forth in the above Regulatory Evaluation, this rule will not have a significant economic impact on a substantial number of small entities.

## Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

## Federalism

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

## Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2(e)(34)(g) of Commandant Instruction M16475.1B, (as amended by 59 FR 38654, July 29, 1994), this rule is a Regulated Navigation Area and is categorically excluded from further

environmental documentation. A Categorical Exclusion Determination and an Environmental Analysis Checklist are included in the docket.

## List of Subjects in 33 CFR Part 165

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

## Regulation

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 165 as follows:

### PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; and 49 CFR 1.46

2. A temporary § 165.T01-068 is added to read as follows:

#### § 165.T01-068 Regulated Navigation Area; Spectacle Island, Boston Harbor, Boston, MA.

(a) *Location.* The following area is a Regulated Navigation Area: All waters of Boston Harbor bounded by the western shore of Spectacle Island and the following coordinates: 42°19'35"N, 070°59'28"W; 42°19'30"N, 070°59'37"W; 42°19'09"N, 070°59'22"W; 42°19'11"N, 070°59'16"W. (NAD 1983)

(b) *Effective date.* This section is effective Monday through Saturday, 24 hours per day, July 16, 1996 to August 16, 1996.

(c) *Regulations.* All vessels shall operate at no-wake speed.

Dated: July 16, 1996.

J. L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 96-19747 Filed 8-2-96; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[MI45-01-7240a; FRL-5545-2]

### Designation of Areas for Air Quality Planning Purposes; Michigan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** In this action the Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) submitted by the State of

Michigan through the Michigan Department of Environmental Quality (MDEQ) on July 24, 1995 for the purpose of redesignating the portion of Wayne County currently designated as nonattainment to attainment status for the particulate matter National Ambient Air Quality Standard (NAAQS).

**DATES:** This "direct final" is effective on October 4, 1996, unless EPA receives adverse or critical comments by September 4, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be sent to Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Copies of this SIP revision and EPA's analysis are available for inspection during normal business hours at the above address. (Please telephone Christos Panos at (312) 353-8328, before visiting the Region 5 office.)

**FOR FURTHER INFORMATION CONTACT:** Christos Panos, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, (312) 353-8328.

### SUPPLEMENTARY INFORMATION:

#### I. Background

On July 1, 1987 (52 FR 24634), EPA revised the NAAQS for particulate matter with a new indicator that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM). (See 40 CFR § 50.6). The 24-hour primary PM standard is 150 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), with no more than one expected exceedance per year. The annual primary PM standard is 50  $\mu\text{g}/\text{m}^3$  expected annual arithmetic mean. The secondary PM standards are identical to the primary standards.

On August 7, 1987 (52 FR 29383), EPA identified the entire Wayne County, Michigan area as a PM "Group I" area of concern, i.e., an area with a strong likelihood of violating the PM NAAQS and requiring a substantial SIP revision. This Group I area was reduced in size on October 31, 1990 (55 FR 45799). The reduced area was subsequently designated as a moderate PM nonattainment area upon enactment of the Clean Air Act Amendments of 1990. 56 FR 56694 at 56705-706, 56714 (November 6, 1991).

#### II. Evaluation Criteria

Section 107(d)(3)(D) of the amended Clean Air Act (Act) allows the Governor

of a State to request the redesignation of an area from nonattainment to attainment. The criteria used to review redesignation requests are derived from the Act, the general preamble to Title I of the Clean Air Act Amendments of 1990 (57 FR 13498), and a September 4, 1992 policy and guidance memorandum from John Calcagni entitled *Procedures for Processing Requests to Redesignate Areas to Attainment*. An area can be redesignated to attainment if the following conditions are met:

1. The area has attained the applicable NAAQS;
2. The area has a fully approved SIP under section 110(k) of the Act;
3. The air quality improvement must be permanent and enforceable;
4. The area has met all relevant requirements under section 110 and Part D of the Act;
5. The area must have a fully approved maintenance plan pursuant to section 175A of the Act.

### III. Review of State Submittal

Under a cover letter dated July 24, 1995 the State submitted a redesignation request for the Wayne County PM nonattainment area. A public hearing was held on March 2, 1995. The State did not receive any adverse comments during the public hearing or the 30-day comment period. The request was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V. The submittal was found to be complete and a letter dated October 5, 1995 was forwarded to the Director, Michigan Department of Environmental Quality (MDEQ), indicating the completeness of the submittal and the next steps to be taken in the review process. The following is a brief description of how the State's redesignation request meets the requirements of Section 107(d)(3)(E). A more detailed discussion is found within EPA's May 1, 1996 Technical Support Document (TSD), which is available at the Regional Office listed above.

#### 1. Attainment of the PM NAAQS

A state must demonstrate that an area has attained the PM NAAQS through submittal of ambient air quality data from an ambient air monitoring network representing peak PM concentrations. The data, which must be quality assured and recorded in the Aerometric Information Retrieval System (AIRS), must show that the average annual number of expected exceedances for the area is less than or equal to 1.0, pursuant to 40 CFR 50.6. The data must

represent the three consecutive years of complete ambient air quality monitoring data collected in accordance with EPA methodologies.

The Wayne County Air Quality Management Division operates three PM monitoring sites in the nonattainment area. National Chemical Services, a private company, also operates a site. The MDEQ submitted ambient air quality data and supporting documentation from each monitoring site for the 1985–1993 period demonstrating that the area has attained the PM NAAQS. This air quality data was quality assured and placed in AIRS. One exceedance of the 24-hour PM NAAQS was recorded in 1986, two in 1988, two in 1989, and one in 1992. No exceedances were recorded in 1987, 1990, 1991, and 1993. Although there was one exceedance in 1992, the number of expected exceedances for the 1991–1993 three-year period is one or less, and therefore, would not be considered a monitored violation of the PM NAAQS. Therefore, the State has adequately demonstrated, through ambient air quality data, that the PM NAAQS has been attained in Wayne County, with 1993 as the attainment year. Further, recent data shows that the area is continuing to attain the PM NAAQS.

#### 2. State Implementation Plan Approval

Those States containing initial moderate PM nonattainment areas were required to submit by November 15, 1991 a SIP which implemented reasonably available control measures (RACM) by December 10, 1993 and demonstrated attainment of the PM NAAQS by December 31, 1994. The SIP for the area must be fully approved under section 110(k) of the Act, and must satisfy all requirements that apply to the area. On January 17, 1995 (60 FR 3346), EPA approved the Wayne County PM nonattainment area SIP originally submitted by the State on June 11, 1993 and revised on October 14, 1994.

#### 3. Improvement in Air Quality Due to Permanent and Enforceable Measures

The State must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. In making this showing, the State must demonstrate that air quality improvements are the result of actual, enforceable emission reductions.

The State provided a detailed discussion of the development of PM emission reductions during the attainment demonstration period of 1986–1993. The PM dispersion modeling conducted as part of the Wayne County PM SIP predicted that

the control measures included in the SIP were sufficient to provide for attainment and maintenance of the PM NAAQS. The State has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emission reductions of 2042.91 tons of PM as a result of implementing the federally enforceable control measures in the SIP.

#### 4. Meeting Applicable Requirements of Section 110 and Part D of the Act

To be redesignated to attainment, section 107(d)(3)(E) requires that an area must have met all applicable requirements of section 110 and of part D of the Act. The EPA interprets this to mean that for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to or at the time of a complete redesignation request.

##### A. Section 110 Requirements

Section 110(a)(2) contains general requirements for nonattainment plans. For purposes of redesignation, the Michigan SIP was reviewed to ensure that all applicable requirements under the amended Act were satisfied. Title 40 CFR Part 52, subpart X, further evidences that the Michigan SIP was approved under section 110 of the Act and found that the SIP satisfied all Part D requirements.

##### B. Part D Requirements

Before a PM nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of Part D. Subpart 1 of Part D establishes the general requirements applicable to all nonattainment areas and subpart 4 of Part D establishes specific requirements applicable to PM nonattainment areas.

The requirements of sections 172(c) and 189(a) regarding attainment of the PM NAAQS, and the requirements of section 172(c) regarding reasonable further progress, imposition of RACM, the adoption of contingency measures, and the submission of an emission inventory have been satisfied through the 1995 approval of the Wayne County PM SIP (60 FR 3346), the 1996 approval of the Wayne County PM contingency measures SIP (61 FR 8009), and the demonstration that the area is now attaining the standard. The requirements of the Part D—New Source Review (NSR) permit program will be replaced by the Part C—Prevention of Significant Deterioration (PSD) program once the area has been redesignated. Because the PSD program was delegated to the State of Michigan on September 10, 1979, and amended on November 7,

1983 and September 26, 1988, it will become fully effective immediately upon redesignation.

#### 5. Fully Approved Maintenance Plan Under Section 175A of the Act

Section 175(A) of the Act requires states that submit a redesignation request for a nonattainment area under section 107(d) to include a maintenance plan to ensure that the attainment of NAAQS for any pollutant is maintained. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the approval of a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating attainment for the ten years following the initial ten year period.

The State of Michigan has adequately demonstrated attainment and maintenance of the PM NAAQS through the dispersion modeling submitted as part of the Wayne County PM attainment demonstration SIP. Although the modeling only projected PM emissions to the year 2005, protection of the NAAQS is assured beyond that because the State SIP includes permanent allowable PM emission limitations. Actual PM emissions are also generally less than the allowable PM emissions considered in the modeling. The maintenance plan for the Wayne County area also contains a commitment from the State to revise and submit a new maintenance plan within eight years of approval of this redesignation.

Once an area has been redesignated, the State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR Part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. In its submittal, the State commits to continue to operate and maintain the network of PM monitoring stations to demonstrate ongoing compliance with the PM NAAQS.

Section 175A of the Act also requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. These contingency measures are distinguished from those generally required for nonattainment areas under section 172(c)(9). However, if an area has been able to attain the NAAQS without implementation of the Part D nonattainment SIP contingency measures, and the contingency plan includes a requirement that the State

will implement all of the PM control measures which were contained in the SIP before redesignation to attainment, then the State can carry over into the area's maintenance plan the Part D SIP measures not previously implemented.

Under a cover letter dated July 13, 1995, MDEQ submitted State Administrative Rule 336.1374 to satisfy the contingency measures requirements specified in both section 172(c)(9) and section 175(A) for the Wayne County PM nonattainment area. On March 1, 1996, EPA approved the rule into the Michigan SIP in a direct final rulemaking (61 FR 8009), which became effective on April 30, 1996. The State may use this rule as the maintenance plan contingency measures, because the State was able to attain the PM NAAQS with the limitations and control measures already contained in the SIP prior to promulgation of Rule 336.1374.

#### IV. Final Action

In this action, EPA is approving the State of Michigan's request to redesignate the Wayne County PM nonattainment area to attainment.

#### V. Miscellaneous

##### A. Comment and Approval Procedure

The EPA is publishing this action without prior proposal because EPA views this action as a noncontroversial revision and anticipates no adverse comments. However, EPA is publishing a separate document in this Federal Register publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on October 4, 1996, unless EPA receives adverse or critical comments by September 4, 1996.

If EPA receives comments adverse to or critical of the approval discussed above, EPA will withdraw this approval before its effective date by publishing a subsequent document which withdraws this final action. All public comments received will then be addressed in a subsequent final rulemaking action.

The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, EPA hereby advises the public that this action will be effective on October 4, 1996.

##### B. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future

request for revision to any SIP. Each request for a revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

##### C. Petitions for Judicial Review

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 4, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the Act, 42 U.S.C. 7607(b)(2)].

##### D. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

##### E. Regulatory Flexibility

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.

Redesignation of an area to attainment under section 107(d)(3)(e) of the 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 regulatory requirements on sources. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the

State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 256-66 (1976).

**F. 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 the 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.

The EPA has determined that the approval action promulgated today 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 approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal

governments, or the private sector, result from this action.

**G. Submission to Congress and the General Accounting Office**

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in this Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

*40 CFR Part 81*

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

Dated: July 16, 1996.

David A. Ullrich,  
*Acting Regional Administrator.*

For the reasons set forth in the preamble 40 CFR parts 52 and 81 are amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

Authority: 42 U.S.C. 7401-7671q.

**Subpart X—Michigan**

2. Section 52.1173 is amended by adding a new paragraph (f) to read as follows:

**§ 52.1173 Control strategy: particulates.**

\* \* \* \* \*

(f) On July 24, 1995, the Michigan Department of Natural Resources requested the redesignation of Wayne County to attainment of the National Ambient Air Quality Standard for particulate matter. The State's maintenance plan is complete and the redesignation satisfies all of the requirements of the Act.

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

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

Authority: 42 U.S.C. 7401-7671q.

2. In § 81.323, the table entitled "Michigan PM-10" is revised to read as follows:

**§ 81.323 Michigan.**

\* \* \* \* \*

**MICHIGAN—PM-10**

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Wayne County—The area bounded by Michigan Avenue from its intersection with I-75 west to I-94, I-94 southwest to Greenfield Road, Greenfield Road south to Schaefer Road, Schaefer Road south and east to Jefferson Avenue, Jefferson Avenue south (Biddle Avenue through the city of Wyandotte) to Sibley Avenue, Sibley Avenue west to Fort Street, Fort Street south to King Road, King Road east to Jefferson Avenue, Jefferson Avenue south to Helen Road, Helen Road east extended to Trenton Channel, Trenton Channel north to the Detroit River, the Detroit River north to the Ambassador Bridge, Ambassador Bridge to I-75, I-75 to Michigan Avenue.	October 4, 1996	Attainment		
Rest of State .....	11/15/90 .....	Unclassifiable		

\* \* \* \* \*

[FR Doc. 96-19785 Filed 8-2-96; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 261**

[FRL-5546-4]

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion; Correction**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule; Correction.

**SUMMARY:** On July 18, 1996, the Environmental Protection Agency (EPA or Agency) published a final rule granting a petition submitted by United Technologies Automotive, Inc. (UTA), Dearborn, Michigan, to exclude (or "delist"), conditionally, on a one-time, upfront basis, a certain solid waste generated by UTA's chemical stabilization treatment of lagoon sludge at the Highway 61 Industrial Site in Memphis, Tennessee, from the lists of hazardous wastes in §§ 261.31 and