consistent with Department of Defense implementing regulations, DOD 4140.1–R and the Defense Federal Acquisition Regulation Supplement, the Department of the Navy is authorized in the acquisition of new equipment to exchange or sell similar items which are not excess to its needs, and apply the exchange allowance or proceeds of sale in whole or part payment for the items acquired.

Dated: October 31, 2000.

C.G. Carlson,

U.S. Marine Corps, Alternate Federal Register, Liaison Officer.

[FR Doc. 00–28867 Filed 11–9–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–00–239]

Drawbridge Operation Regulations: Danvers River, MA.

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations governing the operation of the Massachusetts Bay transportation Authority (MBTA)/Amtrak Bridge, at mile 0.05, across the Danvers River between Beverly and Salem, Massachusetts. This deviation allows the bridge owner to keep the bridge in the closed position from 6 a.m. on Saturday November 18, 2000, through 6 p.m. on Sunday November 19, 2000. This action is necessary to facilitate replacement of the submarine power cables at the bridge.

DATES: This deviation is effective from November 18, 2000, to November 19, 2000.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The MBTA/Amtrak Bridge, at mile 0.05, across the Danvers River, has a vertical clearance of 3 feet at mean high water, and 12 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.595(b).

The bridge owner requested a temporary deviation from the drawbridge operating regulations to facilitate the necessary maintenance for the replacement of the submarine power cables at the bridge. This deviation from the operating regulations allows the bridge owner to keep the bridge in the closed position from 6 a.m. on Saturday, November 18, 2000, through 6 p.m. on Sunday, November 19, 2000. Vessels that can pass under the bridge without an opening may do so at all times during the closed period.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 31, 2000.

G.N. Naccara,

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

[FR Doc. 00–28997 Filed 11–9–00; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MI74–02–7282a; FRL–6896–3]

Approval and Promulgation of State Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is adjusting the applicability date for reinstating the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in Genesee, Bay, Midland, and Saginaw Counties, Michigan and is determining that these areas have attained the 1-hour ozone NAAQS. This determination is based on 3 consecutive years of complete, quality-assured, ambient air monitoring data for the 1997–1999 ozone seasons that demonstrate that the areas have attained the ozone NAAQS. On the basis of this determination, EPA is also determining that certain attainment demonstration requirements, and certain related requirements of part D of subchapter I of the Clean Air Act (CAA), do not apply to Genesee, Bay, Midland, and Saginaw Counties.

EPA is also approving the State of Michigan's request to redesignate Genesee, Bay, Midland, and Saginaw Counties to attainment for the 1-hour ozone NAAQS. Michigan submitted the redesignation request for these areas on May 9, 2000. EPA is also approving the State's plan for maintaining the 1-hour ozone standard for the next 10 years as a revision to the Michigan State Implementation Plan (SIP).

In the proposed rules section of this **Federal Register**, EPA is proposing approval of, and soliciting comments on, this SIP revision. If we receive adverse comments on this action, we will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule. We will not open a second public comment period. Parties interested in commenting on this action should do so at this time.

DATES: This ''direct final'' rule is effective January 16, 2001, unless EPA receives adverse written or critical comments by December 13, 2000. If the rule is withdrawn, EPA will publish timely notice in the **Federal Register**.

ADDRESSES: Send written comments to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone John Mooney at (312) 886–6043 before visiting the Region 5 Office.)

A copy of the SIP revision is available for inspection at the Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), Room M1500, United States Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: John M. Mooney, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6043.

SUPPLEMENTARY INFORMATION:

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I. Adjustment of Applicability Date for Reinstating the 1-Hour Ozone Standard

A. Why Did EPA Revoke the 1-Hour Ozone Standard in Genessee, Saginaw, Midland, and Bay Counties?

On June 5, 1998 (63 FR 31014), July 22, 1998 (63 FR 39432) and June 9, 1999 (64 FR 30911), the EPA revoked the 1-hour ozone NAAQS in many areas around the country in anticipation of implementing the new 8-hour ozone NAAQS that was established in 1997. EPA revoked the 1-hour standard to allow areas that were showing attainment to redirect their focus toward meeting the new 8-hour standard. On June 5, 1998, the EPA revoked the 1-hour standard for Genessee, Saginaw, Midland, and Bay Counties because ozone monitors were showing attainment of the ozone NAAQS.

B. Why Did EPA Reinstate the 1-Hour Ozone Standard in Genessee, Saginaw, Midland, and Bay Counties?

On May 14, 1999, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision on the 8-hour ozone NAAQS that blocked EPA's ability to implement the new standard. That action left nearly 3,000 U.S. counties without any Federal public health standard for ozone. To remedy this situation, on July 20, 2000, EPA published a final rulemaking action in the **Federal Register** (65 FR 45181) to reinstate the 1-hour standard in areas where it had been revoked, including Genessee, Saginaw, Midland, and Bay Counties.

C. What Does Reinstatement Mean for Genesee, Saginaw, Midland, and Bay Counties?

For areas with clean air quality data, like Genessee, Saginaw, Midland, and Bay Counties, the July 20, 2000 rulemaking (65 FR 45182) specifies that reinstating the nonattainment designation will occur 180 days after EPA published the rulemaking, on January 16, 2001. EPA believes that it is appropriate to provide nonattainment areas with clean air quality data since revocation additional time to complete the redesignation process. Therefore, EPA delayed the applicability date of the final rule for 180 days for areas that were designated nonattainment at the time of revocation and continue to have clean data, to allow States to submit redesignation requests and EPA time to act on them prior to the January 16, 2001 applicability date. The July 20, 2000 rule specifies a procedure by which EPA can synchronize the effective date of the reinstatement and redesignate at the same time. EPA is using that procedure in this action.

II. Determination of Attainment

A. What Action Is EPA Taking?

The EPA is determining that the Flint (Genesee County) transitional ozone nonattainment area and the Saginaw-Midland-Bay City (Saginaw, Midland, and Bay Counties) ozone nonattainment area have attained the NAAQS for ozone. On the basis of this determination, EPA is also determining that certain CAA requirements do not apply to these areas as long as they continue to attain the ozone NAAQS. These requirements are section 172(c)(1) attainment demonstration requirements and section 172(c)(9) contingency measure requirement.

B. Why Is EPA Taking This Action?

The EPA believes it is reasonable to interpret provisions regarding attainment demonstrations and certain related provisions to not require SIP submissions, as described further below, if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (*i.e.,* attainment of the NAAQS is demonstrated with three consecutive years of complete, quality-assured, air quality monitoring data). The EPA is basing this determination upon three years of complete, quality-assured, ambient air monitoring data for the 1997 to 1999 ozone seasons recorded at the Flint monitoring sites that demonstrate that Genessee, Saginaw, Midland, and Bay Counties have attained the ozone NAAQS. Preliminary ozone monitoring data for 2000 continue to show that these areas are attaining the ozone NAAQS.

C. What Would Be the Effect of This Action?

The requirements of section 172(c)(1) concerning the submission of a plan to ensure reasonable further progress (RFP) and the ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures for RFP or attainment will not apply to the area.

D. What Is the Background for This Action?

The EPA believes it is reasonable to interpret provisions regarding RFP and attainment demonstrations and certain related provisions to not require SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (*i.e.,* attainment of the NAAQS demonstrated with three consecutive years of complete, quality-assured, air quality monitoring data). EPA has interpreted the general provisions of subpart 1 of part D of Subchapter I (sections 171 and 172) as not requiring the submission of SIP revisions concerning RFP, attainment demonstrations, or contingency measures, as explained in a memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' dated May 10, 1995 (See *Sierra Club* v. *EPA,* 99 F.3d 1551 (10th Cir. 1996)).

The attainment demonstration requirements of section 182(b)(1) are that the plan provide for ''such specific annual reductions in emissions * * * as necessary to attain the national primary ambient air quality standard by the attainment date applicable under the CAA.'' If an area has in fact monitored attainment of the relevant NAAQS, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of certain section 172(c) requirements provided by EPA in the General Preamble to Title I of the Clean Air Act Amendments of 1990 (1990 Act). As EPA stated in the Preamble, no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since ''attainment will have been reached'' (57 FR 13564). Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

Similarly, the EPA has previously interpreted the contingency measure requirement of section 172(c)(9) as no longer applying once an area has

attained the standard since those ''contingency measures are directed at ensuring RFP and attainment by the applicable date'' (57 FR 13564). EPA has exercised this policy most recently in approvals for the Cincinnati, OH and Muskegon, MI areas (65 FR 37879 and 65 FR 52651).

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 air quality data relied upon to determine that the area is attaining the ozone standard must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance and recorded in EPA's Aerometric Information Retrieval System (AIRS).

The determinations in this notice do not shield an area from future EPA action to require emissions reductions from sources in the area where there is evidence, such as photochemical grid modeling, showing that emissions from sources in the area contribute significantly to nonattainment in, or interfere with maintenance by, any other states with respect to the NAAQS (see section 110(a)(2)(D)). The EPA has authority under sections 110(a)(2)(A) and 110(a)(2)(D) of the CAA to require such emission reductions if necessary and appropriate to deal with transport situations.

The EPA has reviewed the ambient air monitoring data for ozone (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS) for Genesee, Bay, Midland, and Saginaw Counties from the 1997 through 1999 ozone seasons, as recorded at monitoring sites in Genesee County. This data is summarized in Table 1 of this document covering EPA's analysis of the redesignation request. Preliminary monitoring data for 2000 show the area continues to attain the 1-hour ozone NAAQS. On the basis of this review, EPA determines that these areas have attained the 1-hour ozone standard during the 1997–99 period, which is the most recent 3 year time period of air quality monitoring data. The State therefore is not required to submit an attainment demonstration, RFP, and a section 172(c)(9) contingency measure plan.

E. Where Is the Public Record and Where Do I Send Comments?

The official record for this direct final rule is at the addresses in the **ADDRESSES** section at the beginning of this document. The addresses for sending comments are also provided in the **ADDRESSES** section at the beginning of this document. If we receive adverse comments on this action, we will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule. We will not open a second public comment period. Parties interested in commenting on this action should do so at this time.

III. Redesignation Request

A. What Action Is EPA Taking?

The EPA is approving the redesignation request for Genesee, Bay, Midland, and Saginaw Counties because 3 years of ambient monitoring data demonstrate that these areas have attained the ozone NAAQS, and the areas have satisfied the other requirements for redesignation. The EPA is approving the maintenance plans submitted by the Michigan Department of Environmental Quality (MDEQ) as a revision to the SIP.

B. What Would Be the Effect of the Redesignation?

The redesignation would change the official designation of Genesee, Bay, Midland, and Saginaw Counties from nonattainment to attainment for the 1-hour ozone standard. It would also put a plan in place to maintain the 1-hour ozone standard for the next 10 years. This plan includes contingency measures to correct any future violations of the 1-hour ozone standard.

C. What Is the Background for This Action?

The EPA originally designated Genesee, Bay, Midland, and Saginaw Counties (Flint and Saginaw-Midland-Bay City areas) as ozone nonattainment areas under section 107 of the 1977 Act on March 3, 1978 (43 FR 8962). The EPA revisited this original designation in 1991 to reflect new designation requirements contained in the 1990 Act. The 1990 Act authorized the EPA to designate nonattainment areas according to degree of severity of the nonattainment problem. On November 6, 1991 (56 FR 56694), the EPA designated Genesee, Bay, Midland, and Saginaw Counties as ozone nonattainment areas. At the time of the 1991 designations, air quality monitoring data for the Flint area showed that the area had not experienced a violation of the ozone NAAQS between 1988–1990, however, the State had not completed a redesignation request showing that it had complied with the requirements of section 107 of the Act. As a result, EPA designated the area as nonattainment, but did not establish a nonattainment classification, establishing the area as a transitional ozone nonattainment area. The State discontinued ozone monitoring in the Saginaw-Midland-Bay City area prior to EPA's 1991 designations. As a result, up to date monitoring data was not available for these areas, nor had the State completed a redesignation request showing that it complied with the requirements of section 107 of the Act. Based on this, the EPA designated the area as nonattainment, but did not establish a nonattainment classification, establishing the area as an incomplete data ozone nonattainment area. The preamble for the original designation contains more detail on this action (56 FR 56694).

Air quality monitors in Genesee County have since recorded 3 years of complete, quality-assured, ambient air quality monitoring data for 1997–1999, thereby demonstrating that the area has attained the 1-hour ozone NAAQS. While monitoring data is not available for Bay, Midland, and Saginaw Counties, the State has argued that the data collected by the ozone monitors in Genesee County are indicative of ozone levels in Bay, Midland, and Saginaw Counties, and should be used as an indicator of this area's attainment status. As discussed in section E.1., below, EPA agrees with Michigan's assertion.

On May 9, 2000 Michigan submitted a maintenance plan to ensure continued attainment of the ozone standard for the Flint and the Saginaw-Midland-Bay City areas. The State also included materials from the public hearing on the request which it held in Saginaw on July 16, 1997.

D. What Are the Redesignation Review Criteria?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation provided that: (1) The Administrator determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable State Implementation Plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175(A); and, (5) the State containing such area has met all requirements of

section 110 and part D of the CAA which are applicable to the area.

The EPA provided guidance on redesignation in the State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, on April 16, 1992 (57 FR 13498) and supplemented the guidance on April 28, 1992 (57 FR 18070). The EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994. (Nichols, October 1994)

2. ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas,'' Sally L. Shaver, Director, Air Quality Strategies and Standards Division, November 16, 1994.

3. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

4. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993.

5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act Deadlines,'' John Calcagni, Director, Air Quality Management Division, October 28, 1992. (Calcagni, October 1992)

6. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992.

7. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992.

E. What Is EPA's Analysis of the Request?

1. The Area Must Be Attaining the 1-Hour Ozone NAAQS

For ozone, an area may be considered to be attaining the 1-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9 and Appendix H, based on three complete, consecutive calendar years of quality assured monitoring data. A violation of the 1-hour ozone NAAQS occurs when the annual average number of expected daily exceedances is equal to or greater than 1.05 per year at a monitoring site. A daily exceedance occurs when the maximum hourly ozone concentration during a given day is 0.125 parts per million (ppm) or higher. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in AIRS. The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

The Michigan request is based on an analysis of quality-assured ozone air quality data. Ambient air monitoring data for calendar years 1997 through calendar year 1999 show no violations of the ozone NAAQS (40 CFR 50.9) in Genesee County. The State collected this data in an EPA approved, quality assured, National Air Monitoring System monitoring network. Table 1 below summarizes the air quality data.

TABLE 1.—1-HOUR OZONE EXCEEDANCES IN GENESEE COUNTY

Site	Year	Exceedances measured	Expected exceedances
Flint Monitor: 26–049–0021	1996	0	0
	1997	0	0
	1998	1	1
	1999	0	0
Otisville Monitor: 26–049–2001	1996	0	0
	1997	0	0
	1998	1	1
	1999	1	1

As discussed in the State's redesignation submittal, ozone monitors operated in Bay County from 1973–1982, and from 1979–1981 in Saginaw County. Due to new monitoring siting criteria, as well as other changes in ozone monitoring techniques, Michigan discontinued monitoring in Bay and Saginaw Counties in 1982. At that time, the monitors had shown attainment of the ozone NAAQS in the Saginaw-Midland-Bay City area since 1978. In the redesignation request, the State argues that recent data from the two Flint monitors is representative of current ozone levels in the Saginaw-Midland-Bay City area. The EPA believes that this is appropriate given the monitoring history of the area, the proximity of the Flint monitors to the Saginaw-Midland-Bay City area, and the population and emissions information that Michigan submitted with the redesignation request. EPA agrees with Michigan's assertion that these monitors are representative of ozone levels in the Saginaw-Midland-Bay City area.

As a result, the area meets the first statutory criterion for redesignation to attainment of the ozone NAAQS. The State has committed to continue to operate a network of monitoring stations in the areas in accordance with 40 CFR part 58. The State will be subject to any changes to the 40 CFR part 58 monitoring requirements if they are changed. (If complete quality assured data show violations of the ozone NAAQS before the final EPA action on this redesignation, the EPA will disapprove the redesignation requests for the Flint and Saginaw-Midland-Bay City areas.

2. The Area Must Have a Fully Approved SIP Under Section 110(k); and the Area Must Have Met All Applicable Requirements Under Section 110 and Part D

Before Genesee, Bay, Midland, and Saginaw Counties may be redesignated to attainment for ozone, the State must have fulfilled the applicable requirements of section 110 and part D. The Calcagni memorandum dated September 4, 1992, states that areas requesting redesignation to attainment must fully adopt rules and programs that come due prior to the submittal of a complete redesignation request.

Section 110 Requirements

General SIP elements are delineated in section 110(a)(2) of the CAA. These requirements include but are not limited to the following: A SIP submittal containing rules the State adopted after reasonable notice and public hearing; provisions to establish and operate appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality; a permit program to implement provisions of part C, Prevention of Significant Deterioration (PSD), and part D, New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring and reporting; provisions for modeling; and provisions for public and local agency participation.

For purposes of redesignation, EPA reviewed the Michigan SIP to ensure that it satisfied all requirements under the amended CAA through approved SIP provisions. A number of the requirements did not change in

substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. The EPA has analyzed the Michigan SIP and determined that it is consistent with the requirements of amended section 110(a)(2). (See also 61 FR 20458 and *Southwestern Growth Alliance* v. *Browner,* 144 F.3d 984 (6th Cir. 1998)).

Part D: General Provisions for Nonattainment Areas

Before Genesee, Bay, Midland, and Saginaw Counties may be redesignated to attainment, they must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 2 of part D establishes additional requirements for ozone nonattainment areas classified under section 186 of the Act. As described in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' specific requirements of subpart 2 may override subpart 1's general provisions (57 FR 13501 (April 16, 1992)). However, as noted in the General Preamble, the subpart 2 requirements do not apply to ''not classified'' ozone nonattainment areas (57 FR 13525). EPA designated Genesee, Bay, Midland, and Saginaw Counties as ''not classified'' ozone nonattainment areas (56 FR 56694, November 6, 1991), codified at 40 CFR § 81.323. Therefore, to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, but not the requirements of subpart 2 of part D.

Subpart 1 of Part D—Section 172(c) Provisions

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years from the date of the nonattainment designation.

EPA has determined that Michigan's redesignation request for Genesee, Bay, Midland, and Saginaw Counties has satisfied all of the requirements under section 172(c) necessary for the areas' redesignation to attainment. Many of the general requirements contained in section 172(c) are addressed by the State's pre-amendment submittal which EPA approved on May 6, 1980 (45 FR 29801). In part 2 of this rulemaking, entitled ''Determination of Attainment,'' EPA determines that several of the section 172(c) requirements do not apply since the areas have attained the ozone NAAQS. We address below the requirements for emissions inventories under section 172(c)(3) and permits programs under section 172(c)(5), which are necessary to redesignate the areas.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. The base year emissions inventory for Genesee, Bay, Midland, and Saginaw Counties is satisfied by the State's submittal of the 1990 inventories for these counties in the redesignation request.

Section 172(c)(5) requires permits to construct and operate new and modified major stationary sources anywhere in the nonattainment area (a NSR program). The EPA has determined that areas being redesignated do not need an approved NSR program prior to redesignation provided that the area demonstrates maintenance of the standard without a NSR program in effect. A memorandum from Mary Nichols dated October 14, 1994 describes the rationale for this decision. See discussion in the Grand Rapids, Michigan notice published on June 21, 1996 (61 FR 31831). EPA has also applied this policy in redesignations of Youngstown-Warren, Columbus, Canton, Cleveland-Akron-Lorain, Dayton-Springfield, Toledo, Preble County, Columbiana County, Clinton County, and Cincinnati Ohio, as well as Detroit, Michigan. Additional information on EPA's rationale is in the approval of the redesignation request for the Cincinnati area (65 FR 37879).

The State has demonstrated that Genesee, Bay, Midland, and Saginaw Counties can maintain the standard without a NSR program in effect, and, therefore, the State need not have a fully approved NSR program prior to approval of the redesignation request for Genesee, Bay, Midland, and Saginaw Counties. The MDEQ's federally delegated PSD program will become effective in Genesee, Bay, Midland, and Saginaw Counties upon redesignation to attainment.

Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. This requirement applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. and the Federal Transit Act (''transportation conformity''), and to all other federally supported or funded projects (''general conformity''). EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. Section 176 further provides that state conformity revisions must be consistent with Federal conformity regulations promulgated by EPA pursuant to CAA requirements. EPA approved Michigan's general and transportation SIPs on December 18, 1996 (61 FR 66607).

As noted in more detail below, EPA's approval is based in part on a November 16, 1994, memorandum from Sally L. Shaver, Director of the Air Quality Strategies and Standards Division entitled ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas'' (limited maintenance plan memo), which contains guidance related to the conformity program. This memo allows nonclassifiable ozone areas that are at or below 85 percent of the ozone standard to submit a less rigorous maintenance plan. In these areas, there is no requirement to project emissions over the maintenance period. EPA believes it is reasonable to expect that such an area will not experience so much growth in that period that a violation of the NAAQS would occur. EPA believes that Genesee, Bay, Midland, and Saginaw Counties meet the criteria for limited maintenance and therefore EPA is approving their limited maintenance plan.

The memo notes that the Federal transportation conformity rule (58 FR 62188) and the Federal general conformity rule (58 FR 63214) apply to areas operating under maintenance plans. Under either rule, one means by which a maintenance area can demonstrate conformity of Federal actions is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area. Because EPA believes that an area to which the limited maintenance plan memo applies will not experience so much growth during the maintenance period that a violation of the NAAQS would occur, emissions budgets are not necessary to constrain emissions growth, and need not be capped for the maintenance period. In these cases, EPA considers that Federal projects subject which otherwise demonstrate conformity satisfy the ''budget test'' of

the Federal conformity rules. While this policy does not exempt an area from the need to affirm conformity, it does allow an area to demonstrate conformity without regional emissions analysis.

The adequacy review period for this SIP submission is concurrent with the public comment period on this direct final rule. Because limited maintenance plans do not contain budgets, the adequacy review period for this maintenance plan serves to allow the public to comment on whether limited maintenance is appropriate for Genesee, Bay, Midland, and Saginaw Counties.

Interested parties may comment on the adequacy and approval of the limited maintenance plan by submitting their comments on this direct final rule.

If EPA receives adverse written comments with respect to the adequacy of the Genesee, Bay, Midland, and Saginaw County limited maintenance plan, or any other aspect of our approval of this SIP, by the time the comment period closes, we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. In this case, we will either respond to the comments in our final action or proceed with the adequacy process as a separate action.

Our action on the Genesee, Bay, Midland, and Saginaw County limited maintenance plan will also be announced on EPA's conformity website: *http://www.epa.gov/oms/traq*, (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity'').

3. The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions

Several Federal and statewide rules are in place which have significantly improved the ambient air quality in the Flint and Saginaw-Midland-Bay City areas, since they last violated the standard in 1988. Existing Federal programs, such as the Federal Motor Vehicle Control Program and the Reid Vapor Pressure (RVP) limit of 9.0 pounds per square inch for gasoline, will not be lifted upon redesignation. These programs will counteract emissions growth as the areas experience economic growth over the life of the maintenance plan.

The State has also adopted VOC rules controlling the loading of gasoline into existing stationary vessels at dispensing facilities; existing cold cleaners; the use of cutback paving asphalt; emissions of VOC from existing metallic surface coating lines; storage of organic compounds in existing fixed roof storage tanks; existing coating lines, emissions of VOC from existing automobile, light-duty truck, and other product and material coating lines; and, emission of volatile organic compounds from existing graphic arts lines. These rules will also remain in place in the applicable areas. In addition, the PSD permits program, and the Federal Operating Permits program will help limit emissions growth.

The EPA finds that the combination of existing EPA-approved SIP and Federal measures ensure the permanence and enforceability of reductions in ambient ozone levels that have allowed the area to attain the NAAQS.

4. The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the EPA approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the 10 years following the initial 10 year period. To address potential future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems.

Section 175A(d) requires that the contingency provisions include a requirement that the State will implement all control measures that were in the SIP prior to redesignation as an attainment area.

In the limited maintenance plan memo noted above, EPA set forth new guidance on maintenance plan requirements for certain ozone nonattainment areas. The limited maintenance plan memo identified criteria through which certain ''not classified'' ozone nonattainment areas could choose to submit less rigorous maintenance plans. EPA used this policy in the approval of the maintenance plan for Victoria, Texas, on March 7, 1995 (60 FR 12453). As noted in the policy, areas whose design values are calculated at or below 0.106 parts per million (ppm) at the time of redesignation, are no longer required to project emissions over the maintenance period. The 0.106 ppm represents 85 percent of the ozone exceedance level of 0.125 ppm. As explained in the limited maintenance plan memo, the EPA believes if an area begins the maintenance period at or below 85 percent of the ozone exceedance level of the NAAQS, the existing Federal and SIP control measures, along with the PSD program, will be adequate to assure maintenance of the ozone NAAQS in the area.

The method for calculating design values is presented in the June 18, 1990 memorandum, ''Ozone and Carbon Monoxide Design Value Calculations,'' from William G. Laxton, former Director of the Office of Air Quality Planning and Standards Technical Support Division. Michigan developed the redesignation request for the Flint and Saginaw-Midland-Bay City areas in 1997. At that time, based on 1994–1996 monitoring data from the Flint ozone network, the design value at the Flint monitors was .106 ppm and the area qualified for the limited maintenance plan option.

After reviewing the redesignation request, EPA finds that the design value for the Flint monitoring network is no longer within the .106 ppm threshold specified in the limited maintenance plan policy. Using monitoring data from 1997–1999, the Otisville monitoring site, downwind of Flint, shows a design value of .114 ppm, mainly due to two unusually high exceedance days recorded on May 15, 1998 and June 11, 1999.

The EPA performed an analysis of meteorological conditions on these days to determine the likely source of the high ozone values. A detailed discussion on this analysis is in EPA's TSD. Based on this analysis, the EPA concludes that the two episode days in question were unusual in that the winds were blowing from south to southeast, carrying emissions from urban areas in Southeast Michigan into the Flint area. Under more typical conditions, with winds from the west/southwest, emissions from the Flint urbanized area are blown toward the Otisville monitoring site. With winds from the south/southeast, emissions sources from upwind areas around Detroit are responsible for the high ozone levels. EPA's analysis indicates that this was the case on both episode days. As a result, it appears that the high values recorded on these days are primarily due to the transport of ozone and ozone forming emissions from areas outside of Flint.

EPA's limited maintenance plan policy is based on an argument that certain areas need not meet the full maintenance plan requirements because they have achieved air quality levels well below the standard without the application of control measures required by the Act for classified ozone nonattainment areas. Despite its current design value, this argument is true for

the Flint area. In fact, the last monitored violation in the Flint area was in 1975. Exceedances of the 1-hour ozone standard have been monitored only a small number of times in the area over the last two decades.

Furthermore, on October 27, 1998 (63 FR 57356) the EPA published a final rule, known as the NO_X SIP call, requiring 22 States and the District of Columbia to significantly reduce NO_X emissions in the eastern United States to reduce the transport of ozone. In an opinion delivered on March 3, 2000, the Circuit Court for the District of Columbia confirmed the applicability of this regulation on numerous States, including Michigan. As a result, Michigan, and other Midwestern States, must reduce NO_X emissions on a statewide basis to reduce background ozone levels. In Michigan, many of the largest NO_X sources are in Southeast Michigan and reductions from these sources would be expected to directly affect the type of situation that occurred in Flint on May 15, 1998 and June 11, 1999.

Without the two transport related exceedances, the design value in Flint would drop to .106 ppm and the area would qualify under the limited maintenance policy. Since the high values were caused by transport, and since EPA has developed the NO_X SIP call to address the transport problem, the EPA believes that it is appropriate to apply the limited maintenance policy in the Flint and Saginaw-Midland-Bay City areas.

In this action, EPA is approving Michigan's limited maintenance plan for the Genesee, Bay, Midland, and Saginaw Counties because Michigan's submittal meets the requirements of section 175A.

An ozone maintenance plan should address the following five elements: attainment inventory, demonstration of maintenance, monitoring network, verification of continued attainment, and a contingency plan.

Attainment Inventory

The State has adequately developed attainment emission inventories for 1990 that identify VOC and NO_X emissions for the Flint and Saginaw-Midland-Bay City nonattainment areas. EPA has determined that 1990 is an appropriate year on which to base attainment level emissions because monitors in the area showed attainment of the ozone NAAQS at the time.

The methodologies used in developing these inventories are discussed in EPA's TSD and in further detail in the State's redesignation submittal. The State has adequately developed an attainment emissions inventory for 1990 that identifies the levels of VOC and NO_X emissions in the areas sufficient to attain the NAAQS.

These emissions are summarized in Tables 2 and 3 below:

TABLE 2.—1990 ATTAINMENT INVENTORY—VOC EMISSIONS

[Tons per day]

Source type	Flint	Saginaw-Midland-Bay City
On-highway motor vehicle	30.05	34.64
Off-highway motor vehicle	12.05	14.63
Area	22.07	25.15
Point	18.52	38.90
Total	83.15	113.3

TABLE 3.—1990 ATTAINMENT INVENTORY—NO_X EMISSIONS

[Tons per day]

Source type	Flint	Saginaw-Midland-Bay City
On-highway motor vehicle	31.27	38.91
Off-highway motor vehicle	10.89	39.69
Area	7.84	2.34
Point	12.11	209.64
Total	62.11	290.58

Demonstration of Maintenance

Under the limited maintenance plan policy, EPA considers air quality monitoring data showing attainment of the ozone standard as satisfying the maintenance demonstration requirement. As a result, areas are not required to project emissions over the maintenance period. EPA believes that areas that qualify under the limited maintenance policy will benefit enough from the PSD program, any measures that are in the SIP, and Federal measures to ensure maintenance over the initial 10 year maintenance period.

Monitoring Network

The State has committed to continue to operate and maintain the network of ambient ozone monitoring stations in Genesee County in accordance with provisions of 40 CFR part 58.

Verification of Continued Attainment

Tracking—Continued demonstration of attainment of the ozone NAAQS in Genesee, Bay, Midland, and Saginaw Counties depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The tracking plan for Genesee, Bay, Midland, and Saginaw Counties consists of continued ambient ozone monitoring in the areas in accordance with the requirements of 40 CFR part 58.

Triggers—The contingency plan contains one trigger: A monitored air quality violation of the ozone NAAQS in any of the four counties, as defined in 40 CFR 50.9. At this time, two ozone monitors are in place in Genesee County. As such, a violation at either of these monitors would trigger the implementation of contingency measures in all four counties. The trigger date will be the date that the State certifies to the U.S. EPA that the air quality data are quality assured, which will be no later than 30 days after monitoring an ambient air quality violation.

Contingency Plan

Despite best efforts to maintain compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Therefore, as required by section 175A of the Act, Michigan has provided contingency measures with a schedule for implementation if a future ozone air quality problem occurs. Contingency measures in the plan include Reid vapor pressure controls on gasoline, implementation of stage I vapor control systems, and industrial cleanup solvent, plastic parts coating, and wood furniture coating regulations.

The State commits to adopting rules or passing legislation for any selected contingency measure within one year of its selection and submit them to EPA for approval. For the Reid vapor pressure controls and stage I vapor recovery control, the State will implement programs within 2 years of its selection as a contingency measure. For other contingency measures, the State will promulgate regulations within 12 months of selection, and implement the measure within 12 months of adoption.

Commitment To Submit Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the Act, the State has committed to submitting a revised maintenance SIP 8 years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional 10 years.

F. Where Is the Public Record and Where Do I Send Comments?

The official record for this direct final rule is located at the addresses in the **ADDRESSES** section at the beginning of this document. The addresses for sending comments are also provided in the **ADDRESSES** section at the beginning of this document. If EPA receives adverse written comments on this action, we will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule. We will not open a second public comment period. Parties interested in commenting on this action should do so at this time.

If we receive adverse written comments on the adequacy of the limited maintenance plan, or any other aspect of our approval of this SIP, by the time the comment period closes, we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. In this case, we will either respond to the comments on the emissions budgets in our final action or proceed with the adequacy process as a separate action.

IV. Disclaimer Language Approving SIP Revisions

Ozone SIPs are designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the ozone NAAQS. This redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the ozone emission limitations and restrictions in the approved ozone SIP. The State cannot make changes to ozone SIP regulations which will render them less stringent than those in the EPA approved plan unless it submits to EPA a revised plan for attainment and maintenance and EPA approves the revision. Unauthorized relaxations, deletions, and changes could result in both a finding of nonimplementation (section 173(b) of the CAA) and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the CAA.

V. What Administrative Requirements Did EPA Consider?

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This rule will 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, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant

economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under sections 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.

EPA has determined that the approval action promulgated 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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**. 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). This rule will be effective January 16, 2001 unless EPA receives adverse written comments by December 13, 2000.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 12, 2001. 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, Hydrocarbons, Reporting and recordkeeping requirements, Volatile organic compounds, Ozone.

40 CFR Part 81

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

Authority: 42 U.S.C. 7401–7671 *et seq.*

Dated: October 26, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

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 X—Michigan

2. Section 52.1174 is amended by adding and reserving paragraph (r) and adding paragraph (s) to read as follows:

§ 52.1174 Control strategy: Ozone.

* * * * *

(s) Approval—On May 9, 2000, the State of Michigan submitted a revision to the Michigan State Implementation Plan for ozone containing a section 175A maintenance plan for the Flint and Saginaw-Midland-Bay City areas as part of Michigan's request to redesignate the areas from nonattainment to attainment for ozone. Elements of the section 175A 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. If monitors in any of these areas record a violation of the ozone NAAQS (which must be confirmed by the State), Michigan will adopt, submit to EPA, and implement one or more appropriate contingency measure(s) which are in the contingency plan and will submit a full maintenance plan under section 175A of the Clean Air Act. The menu of contingency measures includes a low Reid vapor pressure gasoline program, stage I gasoline vapor recovery, and rules for industrial cleanup solvents, plastic parts coating, and wood furniture coating.

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7871 *et seq.*

2. In § 81.323 the table entitled ''Michigan—Ozone (1-hour standard)'' is amended by revising the entries for ''Flint Area: Genesee County,'' and ''Saginaw-Bay City Midland Area:'' including ''Bay County,'' ''Midland County,'' and Saginaw County to read as follows:

§ 81.323 Michigan.

* * * * *

MICHIGAN—OZONE (1-HOUR STANDARD)

Designated areas	Designation		Classification	
	Date[1]	Type	Date[1]	Type
* * *	*	*	*	*
Flint Area:				
Genesee County	January 16, 2001	Attainment.		
* * *	*	*	*	*
Saginaw-Bay City-Midland Area:				
Bay County	January 16, 2001	Attainment.		
Midland County	January 16, 2001	Attainment.		
Saginaw County	January 16, 2001	Attainment.		
* * *	*	*	*	*

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

[FR Doc. 00–28805 Filed 11–9–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 132

[FRL–6898–7]

RIN 2040–AD32

Final Rule To Amend the Final Water Quality Guidance for the Great Lakes System To Prohibit Mixing Zones for Bioaccumulative Chemicals of Concern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today EPA is promulgating the final rule to amend the Final Water Quality Guidance for the Great Lakes System (Guidance) to prohibit mixing zones for bioaccumulative chemicals of concern (BCCs) in the Great Lakes System, subject to certain exceptions for existing discharges. For existing discharges, the regulation prohibits mixing zones for BCCs starting 10 years after the publication date of the final BCC mixing zone rule. New discharges of BCCs are subject to the mixing zone prohibition immediately upon commencing discharge. EPA had promulgated a mixing zone provision similar to this regulation on March 23, 1995, as part of the Guidance required by section 118(c)(2) of the Clean Water Act. The provision was vacated by the U.S. Court of Appeals for the District of Columbia Circuit in the case of *American Iron & Steel Institute* v. *EPA,* 115 F.3d 979 (D.C. Cir. 1997), and was remanded to the Agency for further consideration. In response to the Court's remand, EPA published a proposal on October 4, 1999, to amend the Guidance to reinstate the provision to prohibit mixing zones for BCCs (64 FR 53632). EPA received many comments from stakeholders throughout the United States on its proposal to prohibit mixing zones for BCCs in the Great Lakes Basin. This final rule reflects EPA's reconsideration of the factual record in response to the Court's remand and public comments received on its proposal.

EFFECTIVE DATE: December 13, 2000.

ADDRESSES: The public docket for this rulemaking, including the proposed rule, economic analysis, and other supporting documents, are available for inspection and copying at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604, by appointment only. Appointments may be made by calling Mary Willis Jackson at (312) 886–3717.

FOR FURTHER INFORMATION CONTACT: Mark Morris (4301), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (202–260–0312).

SUPPLEMENTARY INFORMATION:

Potentially Affected Entities

Entities potentially affected by today's action are those discharging or intending to discharge BCCs to waters of the United States in the Great Lakes System. Categories and entities that may ultimately be affected include the following:

Category	Examples of potentially affected entities
Industry	Industries discharging or intending to discharge BCCs to waters in the Great Lakes System as defined in 40 CFR 132.2.
Municipalities	Publicly owned treatment works discharging or intending to discharge BCCs to waters of the Great Lakes System as defined in 40 CFR 132.2

This table is not intended to be exhaustive, but rather is presented to provide a guide for readers regarding regulated entities likely to be affected by this action. Listed in the table are the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table also could be affected. To determine whether your facility is affected by this action, you should examine carefully the definition of ''Great Lakes System'' in 40 CFR 132.2 and examine the preamble to 40 CFR part 132, which describes the part 132 regulations. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section titled **FOR FURTHER INFORMATION CONTACT**.

I. Legal Authority

This regulation is promulgated under the authority of sections 118, 301, 303, 402, and 501 of the Clean Water Act (CWA).

II. Introduction

Section 118(c)(2) of the CWA, as amended by the Great Lakes Critical Programs Act of 1990, required EPA to publish proposed and final water quality guidance on minimum water quality standards, antidegradation policies, and implementation procedures for the Great Lakes System. On March 23, 1995, EPA published a final rule entitled ''Final Water Quality Guidance for the Great Lakes System'' (Guidance) in order to satisfy this