of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation. This proposed rule establishes a regulated navigation area and as such is covered

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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


2. Add § 165.T09–003 to read as follows:

§ 165.T09–003 Safety Zone, Kenosha Harbor, Kenosha, WI.

(a) Location. The following area is a temporary safety zone: all waters of Lake Michigan and Kenosha Harbor within a 300-yard radius of position 42°35′14″ N, 087°48′29″ W (NAD 83).

(b) Effective period. This regulation is effective from 8 p.m. (local) on August 11, 2007 to 10 p.m. (local), on August 11, 2007.

(c) Regulations.

(1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.


Bruce C. Jones,
Captain, U.S. Coast Guard, Commander, Coast Guard Sector Lake Michigan.

[FR Doc. E7–5179 Filed 3–21–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81


Supplemental Proposed Rulemaking on 8-Hour Ozone Redesignations for Various Areas in Michigan, Ohio and West Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental proposed rule.

SUMMARY: On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA’s Phase 1 Implementation Rule for the 8-hour ozone standard. This supplemental proposed rulemaking sets forth EPA’s views on the potential effect of the Court’s ruling on a number of proposed redesignation actions. This rulemaking applies to eighteen 8-hour ozone nonattainment areas in Michigan, Ohio and West Virginia, for which EPA has proposed approval of the States’ redesignation requests. For the reasons set forth in the notice, EPA proposes to find that the Court’s ruling does not alter any requirements relevant to these proposed redesignations that would prevent EPA from finalizing these redesignations. The EPA believes that the Court’s decision, as it currently stands or as it may be modified based upon any petition for rehearing that may be filed, imposes no impediment to moving forward with redesignation of these areas to attainment, because in either circumstance, redesignation is appropriate under the relevant redesignation provisions of the Clean Air Act (CAA) and EPA’s longstanding policies regarding redesignation requests.

DATES: Comments must be received on or before April 6, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0170 by one of the following methods:

• www.regulations.gov: Follow the online instructions for submitting comments.

• E-mail: a-and-r-docket@epa.gov.

• Fax: (202) 566–1741.


Hand Delivery: Environmental Protection Agency, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket’s
normal hours of operation, and special arrangements should be made for
deliveries of boxed information.

Instructions: Direct your comments to
0170. The EPA’s policy is that all
comments received will be included in
the public docket without change and
may be made available online at
http://www.regulations.gov, including
any personal information provided,
unless the comment includes
information claimed to be Confidential
Business Information (CBI) or other
information whose disclosure is
restricted by statute. Do not submit
information that you consider to be CBI
or otherwise protected through
http://www.regulations.gov
publicly available only in hard copy
material, such as copyrighted material,
information whose disclosure is
not publicly available,
listed in the index, some information is
listed in the
section of this document.

If you send an e-mail comment directly
to EPA without going through
http://
www.regulations.gov
you submit. If EPA
means EPA will not know your identity
or e-mail. The
Docket Center homepage at
http://
http://
http://

All documents in the docket
are listed in the http://
www.regulations.gov
index. Although
listed in the index, some information is
not publicly available, e.g., CBI or other
information whose disclosure is
restricted by statute. Certain other
material, such as copyrighted material,
is not placed on the Internet and will be
publicly available only in hard copy
form. Publicly available docket
materials are available either
electronically in http://
www.regulations.gov or in hard copy at
the Air and Radiation Docket and
Information Center, EPA/DC, EPA West,
Room 3334, 1301 Constitution Ave.,
NW., Washington, DC. The Public
Reading Room is open from 8:30 a.m. to
4:30 p.m., Monday through Friday,
excluding legal holidays. The telephone
number for the Public Reading Room is
(202) 566–1744, and the telephone
number for the Air and Radiation
Docket and Information Center is (202)
566–1742.

FOR FURTHER INFORMATION CONTACT:
Butch Stackhouse, Air Quality Policy
Division, Office of Air Quality Planning
and Standards, State and Locals
Program Group, U.S. Environmental
Protection Agency, Research Triangle
Park, NC 27711; telephone number (919)
541–5208; e-mail address:
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SUPPLEMENTARY INFORMATION:
I. General Information
A. Does This Action Apply to Me?
This action applies to you if you are a
State that has proposed areas for
redesignation from nonattainment to
attainment of the 8-hour ozone
standard, but EPA has not yet finalized
such actions. This action is applicable
therefore to the following States:
Michigan; Ohio, and West Virginia. This
supplemental proposed rulemaking
applies to eighteen 8-hour ozone
nonattainment areas, sixteen of which
were designated nonattainment for the
8-hour ozone standard and classified
under Subpart 1 of Part D of the CAA,
and which were previously designated
Unclassifiable/Attainment, or
Attainment subject to a maintenance plan
under the 1-hour standard. EPA has published
proposed rulemakings to redesignate
these areas to attainment for the 8-hour
ozone standard. The areas and dates of
proposed rulemakings for these areas are:
Parkersburg-Marietta, OH-WV
(Washington County, OH), request
submitted on November 17, 2006 and
proposed on January 17, 2007, 72 FR
1956, previously Unclassifiable/
Attainment for the 1-hour standard;
Parkersburg-Marietta, OH-WV (Wood
County, WV), request submitted on
September 8, 2006 and proposed on
January 12, 2007, 72 FR 1474,
previously Attainment subject to a
maintenance plan for the 1-hour
standard; Steubenville-Weirton, OH-WV
(Brooke and Hancock Counties, WV)
request submitted on August 3, 2006 and
proposed on October 2, 2006, 71 FR
57905, previously designated
Unclassifiable/Attainment for the 1-
hour standard; Wheeling, OH-WV
(Marshall and Ohio counties, WV)
request submitted on July 24, 2006 and
proposed on August 24, 2006, 71 FR
57894, previously designated
Unclassifiable/Attainment for the 1-
hour standard; Flint (Genesee and
Lapeer Counties), MI request submitted
on June 13, 2006 and proposed on
January 8, 2007, 72 FR 699, previously
designated Attainment subject to a
maintenance plan for the 1-hour
standard (Genesee County) and
Unclassifiable/Attainment (Lapeer
County) for the 1-hour standard; Benton
Harbor (Berrien County), MI request
submitted on June 13, 2006 and
proposed on January 8, 2007, 72 FR 699,
previously designated Unclassifiable/
Attainment for the 1-hour standard;
Benzie County, MI request submitted on
May 9, 2006 and proposed on December
7, 2006, 70 FR 70915, previously
designated Unclassifiable/Attainment for
the 1-hour standard; Grand Rapids,
(Kent and Ottawa Counties), MI request
submitted on May 9, 2006 and
proposed on December 7, 2006, 70 FR 70915,
previously designated Attainment
subject to a maintenance plan for the 1-
hour standard; Huron County, MI
request submitted on May 9, 2006 and
proposed on December 7, 2006, 70 FR 70915,
previously designated Unclassifiable/Attainment
for the 1-hour standard; Lansing-East
Lansing (Clinton, Eaton, and Ingham
counties), MI request submitted on
May 9, 2006 and proposed on December
7, 2006, 70 FR 70915, previously
designated Unclassifiable/Attainment for
the 1-hour standard; Mason County, MI
request submitted on May 9, 2006 and
proposed on December 7, 2006, 70 FR
70915, previously designated
Unclassifiable/Attainment for the 1-
hour standard; Canton-Massillon (Stark
County), OH request submitted on
August 24, 2006 and proposed on
December 27, 2006, 71 FR 77678,
previously designated Attainment
subject to a maintenance plan for the 1-
hour standard; Lima (Allen County), OH
request submitted on August 24, 2006
and proposed on December 27, 2006, 71
FR 77678, previously designated
Unclassifiable/Attainment for the 1-
hour standard; Wheeling, OH-WV
(Belmont County, OH) request
submitted on August 24, 2006 and
proposed on December 27, 2006, 71 FR
77666, previously designated
Unclassifiable/ Attainment for the 1-
hour standard; and Steubenville-
Weirton, OH-WV (Jefferson County, OH)
request submitted on August 24, 2006
and proposed on January 8, 2007, 72 FR
711, previously designated
Attainment...
subject to a maintenance plan for the 1-hour standard.

This rulemaking also applies to two 8-hour nonattainment areas that were classified under Subpart 2 for the 8-hour ozone standard. These areas, Muskegon, (Muskegon county), MI and Cass County, MI, were also previously designated Attainment subject to a maintenance plan (Muskegon) and Unclassifiable/Attainment (Cass County) for the 1-hour standard. The request was submitted on June 13, 2006 and proposed rulemakings for these areas on January 8, 2007, 72 FR 699.

B. What Should I Consider as I Prepare My Comments for EPA?

1. Submitting CBI. Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for Preparing Your Comments. When submitting comments, remember:

• Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date, and page number).

• Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

• Explain why you agree or disagree, suggest alternatives, and provide substitute language for your requested changes.

• Describe any assumptions and provide any technical information and/or data that you used.

• If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

• Provide specific examples to illustrate your concerns, and suggest alternatives.

• Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

• Make sure to submit your comments by the comment period deadline identified.

• Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Roberto Morales, U.S. Environmental Protection Agency, OAQPS Document Control Officer, 109 TW Alexander Drive, Room C404–02, Research Triangle Park, NC 27711. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

C. Where Can I Obtain Additional Information?

In addition to being available in the public docket, an electronic copy of this proposed rule is also available on the World Wide Web. Following signature by the EPA Acting Assistant Administrator for Air and Radiation, a copy of this proposed rule will be posted on the EPA’s http://www.epa.gov/ozone/.

D. How Is This Preamble Organized?

The information presented in this preamble is organized as follows:

I. General Information

A. Does This Action Apply To Me?

B. What Should I Consider as I Prepare My Comments for EPA?

C. Where Can I Obtain Additional Information?

D. How Is This Preamble Organized?

II. What is the Background for This Action?

The information presented in this preamble is organized as follows:

I. General Information

II. What is the Background for This Action?

III. What Are EPA’s Views on the Potential Effect of the Court’s Ruling on the Proposed Redesignation Actions Identified in This Action?

This action sets forth EPA’s views on the potential effect of the Court’s ruling on the proposed redesignation actions that are the subject of this document. For the reasons set forth below, EPA does not believe that the Court’s ruling alters any requirements relevant to these proposed redesignations and does not prevent EPA from finalizing these redesignations. The EPA believes that the Court’s decision, as it currently stands or as it may be modified based
upon any petition for rehearing that may 
be filed, imposes no impediment to 
moving forward with redesignation of 
these areas to attainment, because in 
either circumstance, redesignation is 
appropriate under the relevant 
redesignation provisions of the CAA 
and longstanding policies regarding 
redesignation requests.

A. Areas Classified Under Subpart 1

1. Possible Subpart 2 Requirements

With respect to the 16 8-hour 
nonattainment areas EPA classified 
under Subpart 1 at the time of 
designation, EPA notes that the Court’s 
ruling rejected EPA’s reasons for 
classifying areas under subpart 1 for the 
8-hour standard and remanded that 
matter to the Agency. Consequently, it 
is possible that these areas could, 
during a remand to EPA, be reclassified under 
Subpart 2. Although any future decision 
by EPA to classify these areas under 
subpart 2 might trigger additional future 
requirements for such areas, EPA 
believes that this does not mean that 
redesignation of the areas that are the 
subject of this notice cannot now go 
forward. This belief is based upon: (1) 
EPA’s longstanding policy of evaluating 
redesignation requests in accordance 
with only the requirements due at the 
time the request was submitted; (2) 
consideration of the inequity of 
applying retroactively any requirements 
that might be applied in the future and, 
(3) with respect to certain of the areas 
that are the subject of this notice, the 
fact that the redesignation requests 
preceded even the earliest possible due 
dates of any requirements for Subpart 2 
areas.

First, at the time the redesignation 
requests for the 16 Subpart 1 areas that 
are the subject of this notice were 
submitted, the areas were classified 
under Subpart 1 and were obligated to 
meet the Subpart 1 requirements. Under 
EPA’s longstanding interpretation of 
section 107(d)(3)(E) of the CAA, to 
qualify for redesignation, States 
requesting redesignation to attainment 
must meet only the relevant State 
Implementation plan (SIP) requirements 
that came due prior to the submittal of 
a complete redesignation request. 
September 4, 1992 Calcagni 
memorandum (“Procedures for 
Processing Requests to Redesignate 
Areas to Attainment,” Memorandum 
from John Calcagni, Director, Air 
Quality Management Division); See also 
Michael Shapiro Memorandum, 
September 17, 1993, and 60 FR 12459, 
12465–12466 (March 7, 1995) 
(redesignation of Detroit-Ann Arbor).

Sierra Club v. EPA, 375 F.3d 537 (7th 
Cir. 2004). See, e.g., also 68 FR 25424, 
25427 (May 12, 2003) (redesignation of 
St. Louis). At the time the redesignation 
requests were submitted, the 16 areas 
were not classified under Subpart 2 and 
no Subpart 2 requirements were 
applicable for purposes of 
redesignation.

Moreover, it would be inequitable to 
retroactively apply any new SIP 
requirements that were not applicable at 
the time the request was submitted, but 
which might later become applicable. 
The DC Circuit has recognized the 
inequity in such retroactive rulemaking. 
See Sierra Club v. Whitman 285 F. 3d 
63 (DC Cir. 2002), in which the DC 
Circuit upheld a District Court’s ruling 
refusing to make retroactive an EPA 
determination of nonattainment that 
was past the statutory due date. Such a 
determination would have resulted in 
the imposition of additional 
requirements on the area. The Court 
stated: “Although EPA failed to make 
the nonattainment determination within 
the statutory timeframe, Sierra Club’s 
proposed solution only makes the 
situation worse. Retroactive relief would 
likely impose large costs on the States, 
which would face fines and suits for not 
implementing air pollution prevention 
plans in 1997, even though they were 
not on notice at the time.” Id. at 68. 
Similarly, here it would be unfair to 
penalize the areas included in this 
notice by applying to them for purposes 
of redesignation any additional SIP 
requirements under Subpart 2 that were 
not in effect at the time they submitted 
their redesignation requests, but that 
might apply in the future.

Third, even if a future Subpart 2 
classification were applied to these 
areas retroactively, for many of the 
Subpart 1 areas subject to this 
notice, the Subpart 2 requirements would 
still not be considered applicable for 
purposes of redesignation. As set forth 
above, the applicable requirements for 
purposes of redesignation are only those 
that became due prior to submission of 
the redesignation request. In the case of 
eight of the areas subject to this 
rulemaking,6 the submission of the 
redesignation request preceded even 
the earliest possible due date of 
requirements for areas classified under 
Subpart 2 effective June 2004. These 
requests were all submitted before the 
earliest estimated submission date, which 
was June 15, 2006, for the emissions 
statement requirement under section 
182(a)(3)[B] and emissions inventories

under section 182(a)[1]. Thus for this 
additional reason alone these additional 
Subpart 2 requirements would not be 
applicable for purposes of evaluating 
redesignation requests for these areas. In 
addition, to the extent that areas had 
complied with the emissions statement 
requirement for the 1-hour standard 
under section 182(a)(3)[B], this could 
also be considered to satisfy the 
requirement under the 8-hour standard.

2. Requirements Under the 1-Hour 
Standard

With respect to the Court’s ruling 
regarding EPA’s revocation of the 1-hour 
standard, all of the Subpart 1 areas that 
are the subject of the pending 
redesignation actions were designated 
attainment or unclassifiable/ attainment 
or unattainment subject to a maintenance 
plan for the 1-hour standard. Those 
areas designated attainment or 
unclassifiable/attainment were never 
designated nonattainment for the 1-hour 
standard. Thus, the provisions at issue 
in the backsliding portion of the 
Court’s decision never applied to these 
areas and would not apply. For those 
areas designated attainment subject to a 
CAA section 175A maintenance plan for 
the 1-hour standard, the Court’s ruling 
could be interpreted to require 
continuation of certain conformity 
requirements, such as the requirement 
to submit a transportation conformity 
SIP that addresses the 1-hour standard.2 
EPA approved conformity SIPs for those 
subpart 1 areas in Michigan and Ohio 
that were attainment subject to a 
maintenance plan for the 1-hour 
standard.3

Moreover, under longstanding EPA 
policy, EPA interprets the conformity 
SIP requirements as not being 
applicable requirements for purposes of 
evaluating a redesignation request under 
section 107(d). See Wall v. EPA, 265 
F.3d 426 (6th Cir. 2001), (upholding this 
interpretation). See also 60 FR 62748 
(Dec. 7. 1995) (Tampa, FL 
redesignation). This is because state 
conformity rules are still required after 
redesignation and Federal conformity 
rules apply where State rules have not 
been approved. 40 CFR 93.151 and 40 

2 CAA section 176(c)(4)(E) currently requires 
States to submit revisions to their SIPs to reflect 
certain Federal criteria and procedures for 
determining transportation conformity. 
Transportation conformity SIPs are different from 
the motor vehicle emissions budgets that are 
established in control strategy SIPs and 
maintenance plans.

3 Grand Rapids (MI), the Genesee County portion 
of Flint (MI), Canton-Massillon (OH), the Ohio 
portion of Steubenville-Weirton (OH) EPA 
approved Michigan’s conformity SIP on December 
18, 1996 (61 FR 66609), and Ohio’s on May 30, 2000 
(65 FR 34395).
CFR 51.390. Thus the decision in South Coast should not alter requirements for these areas that would preclude EPA from finalizing its proposed redesignations.

B. Areas Classified Under Subpart 2: Muskegon and Cass County, MI

1. Subpart 2 Requirements

The two 8-hour nonattainment areas listed above are classified under subpart 2 for the 8-hour standard. We do not believe that any part of the Court’s opinion could require that these subpart 2 classifications be changed upon remand to EPA. However, even assuming that they may (and Muskegon and Cass County would be subject to a different classification under a classification scheme created in a future rule in response to the Court’s decision) that would not prevent EPA from finalizing the proposed redesignation for these areas. For the same reasons set forth above with respect to the applicability of Subpart 2 requirements to areas that were classified Subpart 1 at the time of submission of redesignation requests, any additional requirements that might apply based on that different classification would not be applicable for purposes of evaluating their redesignation requests.

2. Requirements Under the 1-Hour Standard

With respect to the 1-hour standard, since Cass County was never designated nonattainment for the 1-hour standard, there are no outstanding 1-hour nonattainment area requirements that it would be required to meet under the anti-backsliding requirements.

Muskegon was a maintenance area under the 1-hour standard; thus, the conformity requirement is the only relevant anti-backsliding requirement that was at issue before the court. As noted above, EPA approved Michigan’s transportation conformity SIP on December 18, 1996 (61 FR 66609). Also, for the reasons set forth above with respect to the areas classified under Subpart 1, EPA believes that having an approved conformity SIP is not an applicable requirement for purposes of redesignation.

IV. What Action Is EPA Proposing?

Thus, for the reasons discussed above, EPA proposes that the Court’s ruling in South Coast, whether it stands as initially rendered or is modified based on any petition for rehearing or other further court proceeding, does not alter any requirements applicable for purposes of evaluating the redesignation requests for these areas that would prevent the Agency from finalizing its proposed determinations.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. It does not contain any recordkeeping or reporting requirements.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information; processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply, with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency does not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The control numbers for EPA’s regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives “which minimize any significant economic impact of the rule on small entities.” 5 U.S.C. 603 and 604.

Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This proposed rule sets forth EPA’s views on the potential effect of the ruling of the U.S. Court of Appeals for the District of Columbia Circuit in South Coast Air Quality Management Dist. v. EPA, 472 F.3d. 882 (DC Cir. December 22, 2006) on a number of areas proposed for redesignation of the 8-hour ozone standard.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory
alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any 1 year. Since this proposed rule does not impose a mandate upon any source, this rule is not estimated to result in the expenditure by State, local and Tribal governments or the private sector of $100 million in any 1 year. Since this proposed rule does not impose any new mandates on State or local governments. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on the proposed rule for this action from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 62249, November 6, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This proposed rule does not have Tribal Implications. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes, as specified in Executive Order 13175. This action does not have any direct effects on Indian Tribes. Thus, Executive Order 13175 does not apply to this proposed rule. The EPA specifically solicits additional comment on this proposed rule from Tribal officials where there are applicable Tribal lands in the affected areas.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: “Protection of Children From Environmental Health and Safety Risks” (62 FR 19885, April 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer Advancement Act (15 U.S.C. 113, section 12(d), (15 U.S.C. 272 note)) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, with explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental
just. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA has determined that this proposed rule will not have disproportionally high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of health or environmental protection, but instead merely sets forth EPA’s views on the potential effect of the ruling of the U.S. Court of Appeals for the District of Columbia Circuit in South Coast Air Quality Management Dist. v. EPA, 472 F.3d 882 (DC Cir. December 22, 2006) on a number of areas proposed for redesignation of the 8-hour ozone standard.

List of Subjects
40 CFR Part 52
Environmental protection, Air pollution control, Nitrogen oxides, Ozone. Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81
Air pollution control, National parks, Wilderness areas.

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


William L. Wehrum,
Acting Assistant Administrator for Air and Radiation.

[FR Doc. E7–5352 Filed 3–21–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

RIN 2060–AL92

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Regulations Requiring Onboard Diagnostic Systems on 2010 and Later Heavy-Duty Engines Used in Highway Applications Over 14,000 Pounds; Revisions to Onboard Diagnostic Requirements for Diesel Highway Heavy-Duty Vehicles Under 14,000 Pounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of extension of comment period.

SUMMARY: The EPA is announcing an extension of the public comment period within the context of our proposed heavy-duty onboard diagnostics (OBD) requirements. (72 FR 3200, January 24, 2007) Specifically, we are extending the comment period for comments pertaining to the proposed service information availability requirements for engines used in highway vehicles over 14,000 pounds. These proposed requirements can be found in the proposed § 86.010–38(f). (72 FR 3322) The comment period will be extended from March 26, 2007 to May 4, 2007. We are extending the comment period in response to a request to do so from the Engine Manufacturers Association.

DATES: Written comments pertaining to the proposed service information availability requirements of the proposed § 86.010–38(f) must be received on or before May 4, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0047, by one of the following methods:

• http://www.regulations.gov: Follow the online instructions for submitting comments.


Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2005–0047. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at http://www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through http://www.regulations.gov or e-mail. The http://www.regulations.gov Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through http://www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the http://www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in http://www.regulations.gov or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: U.S. EPA, National Vehicle and Fuel Emissions Laboratory, Assessment and Standards Division, 2000 Traverrwood Drive, Ann Arbor, MI 48105; telephone (734) 214–4405, fax (734) 214–4816, e-mail sherwood.todd@epa.gov.

SUPPLEMENTARY INFORMATION:

What Should I Consider as I Prepare My Comments for EPA?

Submitting CBI. Do not submit this information to EPA through http://www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.