

Drafting Information

The drafters of this regulation are Lieutenant S.P. Metruck, project officer for the Captain of the Port and Lieutenant G. Tanos, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

A vessel grounded in the entrance channel to Boca Grande Pass on 25 April 1990. A resulting investigation revealed that the grounding was caused by shoaling in the waterway.

This regulation is required because shoaling has encroached into the channel limiting the size (draft) of vessel that can safely navigate in the channel. Vessels with maximum drafts greater than 25 feet are prohibited from the waterway. Vessels with drafts from 24 to 25 feet are prohibited from operating during periods of darkness; passage is permitted for these vessels only during daylight hours when the height of tide is one or more feet above mean low water. Vessels with drafts less than 24 feet are not restricted.

These restrictions are necessary to prevent vessels from running aground in the channel. Concern that a grounding in the channel could result in significant damage to a vessel and the release of oil or chemicals in an environmentally sensitive area makes immediate action necessary.

Charlotte Harbor Channel Lighted Buoy 5 (Light List Number 16875) was relocated to mark the shoaling, reducing the width of the channel by one half. Notice of the channel conditions and buoy relocation was given in the Seventh Coast Guard District Local Notice to Mariners number 15-89 dated April 11, 1989.

Dredging of the channel by the U.S. Army Corps of Engineers is tentatively scheduled to begin in Fall 1990.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and

procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The amount of commercial traffic in Boca Grande Pass is very low. The vessels primarily affected are tank vessels calling on the Florida Power and Light Plant located at the Port of Boca Grande and due to the hazards involved with the shoaling, the tank vessels are already observing the draft restrictions of the regulations.

Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. Section 165.T07-90-50 is added to read as follows:

§ 165.T07-90-50 Safety Zone: Entrance Channel to Boca Grande Pass, Boca Grande, Florida.

(a) *Location*: The following is a safety zone: Entrance Channel to Boca Grande Pass, Boca Grande, Florida.

(b) *Effective date*: This regulation becomes effective on August 30, 1990. It terminates on May 1, 1991 or unless terminated earlier due to completion of channel dredging project.

(c) *Regulations*: In accordance with the general regulations in § 165.23 of this part:

(1) Vessels with a maximum draft greater than 25 feet are prohibited.

(2) Vessels with a maximum draft of greater than 24 feet are restricted to operate during periods of daylight when the height of tide is one or more feet above mean low water.

Dated: August 30, 1990.

R.E. Bennis,

Commander, U.S. Coast Guard, Alternate Captain of the Port, Tampa, Florida.

[FR Doc. 90-21274 Filed 9-12-90; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 81**

[FRL-3829-5]

Designation of Areas for Air Quality Planning Purposes; Ozone Attainment Status Designations; Gregg County, TX

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Texas submitted a request on September 26, 1989, to redesignate Gregg County from nonattainment to attainment for ozone in accordance with section 107(d)(5) of the CAA. On April 11, 1990, EPA proposed to redesignate Gregg County from nonattainment to attainment of the ozone standard. Texas has shown evidence of an implemented EPA approved control strategy and ozone air quality data through April 1990 which show no exceedances of the ozone National Ambient Air Quality Standard (NAAQS) and less than 1.0 expected exceedance averaged over a three year period (March 1, 1987—April 30, 1990). EPA is designating Gregg County from ozone nonattainment to attainment.

EFFECTIVE DATE: September 13, 1990.

ADDRESSES: Copies of the State's designation request, technical support document, and the supporting air quality data are available for public inspection during normal business hours at the following addresses:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-AN), 1445 Ross Avenue, Dallas, Texas 75202-2733.

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

If you plan to visit any of these offices, please contact the person named below to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Rebecca Caldwell, (214) 655-7214 or FTS 255-7214.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act (CAA), the Administrator of EPA has promulgated the national ambient air quality standards (NAAQS) attainment status for all areas within each State. These area designations are subject to revision whenever sufficient air quality data become available to warrant a redesignation and other requirements are met (see 51 FR 26272, July 22, 1986). For areas designated nonattainment for ozone, a revised ozone State Implementation Plan (SIP) was required

which satisfies the requirements of section 110(a) and part D of the CAA, and which provides for attainment and maintenance of the ozone NAAQS.

Gregg County Ozone State Implementation Plan (SIP)

On April 13, 1979, the TACB submitted to EPA a SIP to accomplish Volatile Organic Compounds (VOC) emission reductions in the rural and urban areas of the State as required by the 1977 CAA. The SIP provided for emission reductions by December 31, 1982, to demonstrate attainment of the ozone standard in Gregg County, which had been identified as a "rural" ozone nonattainment area. The TACB adopted VOC controls, Regulations V, "Control of Air Pollution from Volatile Organic Compounds", in Gregg County on July 11, 1980, as specified in EPA's Set I and II Control Technique Guidelines. In addition, emission reductions were achieved from the Federal Motor Vehicle Control Program (FMVCP) administered by the Federal government. The VOC controls required by TACB Regulation V were effective as of August 22, 1980, and all persons affected by these rules were required to be in compliance as soon as practicable, but not later than December 31, 1982. EPA approved the 1979 SIP for Gregg County on March 25, 1980 and May 3, 1982. More information related to the VOC emission reductions can be found in the Technical Support Document.

The Ozone NAAQS

The NAAQS for ozone is violated when the annual average expected number of daily exceedances of the standard (0.12 parts per million (ppm), 1-hour average) is greater than 1.0. A daily exceedance occurs when the maximum hourly ozone concentration monitored during a given day exceeds 0.124 ppm. (See "Guideline for the Interpretation of Ozone Air Quality Standard", EPA-450/4-79-003, which has been included in the record for this rulemaking action.) The expected number of daily exceedances is calculated from the observed number of exceedances by making the assumption that non-monitored days (due to invalid or incomplete data) have the same fraction of daily exceedances as observed on monitored days (EPA-450/4-79-003). Further information on specific criteria for ozone redesignations can be found in the proposed April 11, 1990 Federal Register notice.

Public Comment

EPA received public comments from government officials in Gregg County, citizens of Longview, and industries

located in Gregg County. The comments received supported the ozone redesignation of Gregg County from nonattainment to attainment and maintaining an adequate ozone monitoring network. Only one commenter, Southwestern Electric Power Company, did not support maintaining the ozone monitoring network. EPA believes maintaining the ozone monitor in Gregg County will ensure that continued compliance is achieved and will assure the citizens in Gregg County that the ozone air quality standards are being maintained. Therefore, it is essential to maintain the ozone monitor in Gregg County.

Final Designation

On April 14, 1989, the Texas Air Control Board adopted a resolution recommending that Gregg County be reclassified as an attainment area for ozone. The TACB submitted the resolution and supporting documentation to EPA on September 26, 1989, and additional requested information on December 7, 1989.

In order to redesignate an ozone nonattainment area, EPA policy requires that the most recent three years of ozone data show an expected exceedance calculation of less than or equal to 1.0 averaged over a three year period. Texas has submitted ambient air quality data collected at the Gregg County monitoring site from 1977 to 1988 except for 1986 and the early part of 1987.

The most recent three years of data needed to designate Gregg County to attainment would include 1987, 1988, and 1989. Texas did not start monitoring in 1987 until May 1, 1987; therefore, in order to have a complete three years of data, Texas had to provide ozone air quality monitoring data through April 1990.

The expected exceedance calculation is zero in 1987, 1988, and 1989 since there were no ozone exceedances. There were no ozone exceedances through April 1990, therefore, the expected exceedance calculation remains less than 1.0 averaged over the May 1, 1987 through April 30, 1990 time period. Gregg County has the appropriate monitoring data to redesignate the county to attainment.

Final Action

The State's request to redesignate Gregg County from nonattainment to attainment status for ozone provides evidence that Gregg County has an approved and implemented SIP, verifies that the major VOC sources are in compliance in the county, and that attainment has been achieved through real enforceable emission reductions

and not as a result of economic downturn in the economy.

Therefore, EPA is redesignating Gregg County from nonattainment to attainment for the ozone NAAQS since ozone monitoring data through April 1990 show no ozone exceedances and the expected exceedance calculation remains less than 1.0 averaged over the three year period from May 1, 1987 to April 30, 1990.

Today's action is contingent upon the State maintaining an adequate ozone ambient air quality monitoring network and continuing full implementation of their nonattainment plan. Under the reasoning of *Bethlehem Steel Corp v. EPA*, 723 F. 2d 1304 (7th Cir. 1983), EPA believes that it may not have the authority to redesignate an area of nonattainment without first receiving a request to do so from the affected state. Therefore EPA anticipates that should violations of the ozone NAAQS occur in the future, the state will request that EPA redesignate the area nonattainment. Also, this redesignation does not in any way relieve sources from their obligation to meet all applicable requirements of the approved ozone nonattainment plans (SIPs), nor does it authorize the State to delete or relax RACT emission limiting regulations. Changes to ozone SIP VOC regulations rendering them less stringent than those contained in the EPA-approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of nonimplementation [section 173(b) of the Clean Air Act] and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the Clean Air Act.

As noted elsewhere in this notice, EPA received no adverse public comments on the proposed action. As a direct result, the Regional Administrator has reclassified this action from Table 1 to Table 2 under the processing procedures established at 54 FR 2214, January 19, 1989. On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Clean Air Act (CAA), petitions for judicial review of this action must be filed in the

United States Court of Appeals for the appropriate circuit by November 13, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 81

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

Dated: July 31, 1990.

Robert E. Layton, Jr.,
Regional Administrator.

40 CFR part 81, subpart C, is amended as follows:

PART 81—[AMENDED]

Subpart C—Texas

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

Authority: 42 U.S.C. 7401-7842.

2. In § 81.344 the Texas—ozone (O₃) table is amended by revising the entry for "AQCR 022" to read as follows:

§ 81.344 Texas.

Texas—Ozone (O₃)

Designated area	Does not meet primary standard	Cannot be classified or better than national standards
AQCR 022:		
Gregg County.....		X
Remainder of AQCR.....		X

[FR Doc. 90-21598 Filed 9-12-90; 8:45 am]
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40 CFR Part 761

[OPTS-660081; FRL 3797-2]

Polychlorinated Biphenyls (PCB's): Manufacturing, Processing, and Distribution in Commerce, Stay of Interpretation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; stay of interpretation.

SUMMARY: Section 6 of the Toxic Substances Control Act (TSCA) generally prohibits the manufacture, processing and distribution in commerce of polychlorinated biphenyl (PCBs). It also provides a procedure where persons may petition the Administrator, for good cause shown, for an exemption from these prohibitions. This notice announces EPA's stay of an interpretation of 40 CFR 761.20(c)(1) which was included in the preamble to the PCB Manufacturing, Processing, and Distribution in Commerce Exemption Rule that was published in the Federal Register (55 FR 21023) on May 22, 1990.

EFFECTIVE DATE: This stay is effective as of July 3, 1990.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director Environmental Assistance Division: (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460 Telephone: (202) 554-1404, TDD: (202) 554-0551.

ADDRESSES: The official record for the PCB exemptions is located in the TSCA Public Docket Office, Rm. G004, NE Mall, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. The record is available for copying and inspection from 8 a.m. to 12 noon, and from 1 p.m. to 4 p.m. Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: EPA has determined to stay the interpretation of § 761.20(c)(1) in the preamble to the Polychlorinated Biphenyl (PCB) Exemption Rule, 55 FR 21023, only insofar as it requires entities, such as the Electric Apparatus Service Association, Inc. (EASA) to obtain an exemption to buy or sell PCB Transformers or PCB-Contaminated Transformers, as found in the PCB Manufacturing, Processing, and Distribution in Commerce Exemptions Rule published in the Federal Register on May 22, 1990 (55 FR 21025). This stay does not affect any exemption petition addressed in that rule or any other aspect of that rule or preamble to the rule. In granting this stay, EPA intends to reevaluate its interpretation of TSCA section 6(e) and 40 CFR 761.20(c)(1) along with broader issues regarding buying and selling of PCB Transformers and PCB-Contaminated Transformers. Accordingly, the interpretation requiring entities such as EASA obtain an exemption to buy and sell intact, non-leaking PCB or PCB-Contaminated Transformers is hereby stayed.

Dated: August 29, 1990.

Charles L. Elkins,
Director, Office of Toxic Substances.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 900511-0111]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA announces the closure of the recreational salmon fishery in the exclusive economic zone (EEZ) from Cape Alava to the Queets River, Washington, at midnight, September 3, 1990, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined that the recreational fishery quota of 5,400 coho salmon for the subarea will be reached by September 3, 1990. The closure is necessary to conform to the preseason announcement of 1990 conservation of coho salmon.

DATES: Effective: Closure of the EEZ from Cape Alava to the Queets River, Washington, to recreational salmon fishing is effective at 2400 hours local time, September 3, 1990. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.20, 661.21, and 1861.23 (as amended May 1, 1989). *Comments:* Public comments are invited until September 25, 1990.

ADDRESSES: Comments may be mailed to Rolland A. Schmitt, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR part 661 specify at

§ 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by notice issued under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

In its preseason notice of 1990 management measures (55 FR 18894, May 7, 1990), NOAA announced that the 1990 recreational fishery for all salmon species in the subarea from Cape Alava to the Queets River, Washington, would begin on July 2 and continue through the earliest of September 20 or the attainment of either subarea quota of 3,300 coho salmon or the overall quota of 37,500 chinook salmon north of Cape Falcon, Oregon. The subarea quota for coho salmon was modified on July 29 to

5,400 fish (55 FR 32259, August 8, 1990). Based on the best available information, the recreational fishery catch in the subarea is projected to reach the 5,400 coho salmon quota by midnight, September 3, 1990. Therefore, the fishery in this subarea is closed to further recreational fishing effective 2400 hours local time, September 3, 1990.

The Regional Director consulted with representatives of the Pacific Fishery Management Council and the Washington Department of Fisheries regarding a closure of the recreational fishery between Cape Alava and the Queets River, Washington. The State of Washington will manage the recreational fishery in State waters adjacent to this area of the EEZ in accordance with this federal action. This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for

this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted for 15 days after filing with the Office of the Federal Register, through September 25, 1990.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 10, 1990.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-21673 Filed 9-10-90; 5:01 pm]

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