

amount of losses treated as reattributed pursuant to paragraph (i)(3)(i) or (ii) of this section;

(v) If an apportionment of a separate section 382 limitation, a subgroup section 382 limitation, or a consolidated section 382 limitation is adjusted pursuant to paragraph (i)(3)(iii)(A), (B), or (C) of this section, the original and redetermined apportionment of such limitation; and

(vi) If the application of paragraph (i)(3)(i) or (ii) of this section results in a reduction of the amount of losses treated as reattributed pursuant to an election described in § 1.1502-20(g), a statement that the notification described in paragraph (i)(3)(iv) of this section was sent to the subsidiary and, if the acquirer was a member of a consolidated group at the time of the stock sale, to the person that was the common parent of such group at such time, as required by paragraph (i)(3)(iv) of this section.

(5) *Cross references.* See § 1.1502-32(b)(4)(v) for a special rule for filing a waiver of loss carryovers.

Par. 6. Section 1.1502-32 is amended by adding paragraph (b)(4)(v) to read as follows:

§ 1.1502-32 Investment adjustments.

* * * * *

(b) * * *
(4) * * *

(v) [Reserved]. For further guidance, see § 1.1502-32T(b)(4)(v).

Par. 7. Section 1.1502-32T is added to read as follows:

§ 1.1502-32T Investment adjustments (temporary).

(a) through (b)(4)(iv) [Reserved]. For further guidance, see § 1.1502-32(a) through (b)(4)(iv).

(v) *Special rule for loss carryovers of a subsidiary acquired in a transaction for which an election under § 1.1502-20T(i)(2) is made—(A) Expired losses.* Notwithstanding § 1.1502-32(b)(4)(iv), to the extent that S's loss carryovers are increased by reason of an election under § 1.1502-20T(i)(2) and such loss carryovers expire or would have been properly used to offset income in a taxable year for which the refund of an overpayment is prevented by any law or rule of law as of the date the group files its original return for the taxable year in which S receives the notification described in § 1.1502-20T(i)(3)(iv) and at all times thereafter, the group will be deemed to have made an election under § 1.1502-32(b)(4) to treat all of such expired loss carryovers as expiring for all Federal income tax purposes immediately before S became a member of the consolidated group.

(B) *Available losses.* Notwithstanding § 1.1502-32(b)(4)(iv), to the extent that S's loss carryovers are increased by reason of an election under § 1.1502-20T(i)(2) and such loss carryovers have not expired and would not have been properly used to offset income in a taxable year for which the refund of an overpayment is prevented by any law or rule of law as of the date the group files its original return for the taxable year in which S receives the notification described in § 1.1502-20T(i)(3)(iv) and at all times thereafter, the group may make an election under § 1.1502-32(b)(4) to treat all or a portion of such loss carryovers as expiring for all Federal income tax purposes immediately before S became a member of the consolidated group. Such election must be filed with the group's original return for the taxable year in which S receives the notification described in § 1.1502-20T(i)(3)(iv).

(C) *Effective date.* This paragraph (b)(4)(v) is applicable on and after March 7, 2002.

(c) through (h)(5)(ii) [Reserved]. For further guidance, see § 1.1502-32(c) through (h)(5)(ii).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 8. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 9. In § 602.101, paragraph (b) is amended by adding entries to the table in numerical order to read in part as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
1.337(d)-2T	1545-1774
1.1502-20T	1545-1774
1.1502-32T	1545-1774

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved: February 27, 2002.

Mark Weinberger,
Assistant Secretary of the Treasury.

[FR Doc. 02-5850 Filed 3-7-02; 3:17 pm]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08-02-004]

Drawbridge Operating Regulation; Three Mile Creek, AL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation in 33 CFR part 117 governing the operation of the CSX Transportation railroad swing span drawbridge across Three Mile Creek, mile 0.3, at Mobile, Alabama. This deviation allows the draw of the railroad swing span bridge to remain closed to navigation from 10 a.m. until 3 p.m. on March 18 and 19, 2002. This temporary deviation will allow for conversion of the operating mechanism from mechanical to hydraulic.

DATES: This deviation is effective from 10 a.m. on Monday, March 18, 2002 until 3 p.m. on Tuesday, March 19, 2002.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130-3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: The CSX Transportation railroad swing span drawbridge across Three Mile Creek, Baldwin County, Alabama has a vertical clearance in the closed-to-navigation position of 10 feet above mean high water and 12 feet above mean low water. The bridge provides unlimited vertical clearance in the open-to-navigation position. Navigation on the waterway consists of tugs with tows and fishing vessels. Presently, the draw opens on signal.

CSX Transportation requested a temporary deviation for the operation of the drawbridge to accommodate maintenance work. The work involves replacement of the deficient mechanical operating system with a new hydraulic system. This work is essential for continued operation of the draw span of the bridge and is expected to eliminate

frequent breakdowns resulting in emergency bridge closures.

This deviation allows the draw of the CSX Transportation railroad swing span drawbridge to remain closed to navigation from 10 a.m. until 3 p.m. on March 18 and 19, 2002.

Dated: February 25, 2002.

Roy J. Casto,

*Rear Admiral, U.S. Coast Guard, Commander,
Eighth Coast Guard District.*

[FR Doc. 02-5805 Filed 3-11-02; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 81

[OH132-4; FRL-7155-2]

Designation of Areas for Air Quality Planning Purposes; Ohio; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: The Cincinnati-Hamilton moderate ozone nonattainment area (Cincinnati-Hamilton area) was redesignated to attainment on June 19, 2000. The Cincinnati-Hamilton area includes the Ohio Counties of Hamilton, Butler, Clermont, and Warren and the Kentucky Counties of Boone, Campbell, and Kenton. On September 11, 2001, the United States Court of Appeals for the 6th Circuit (Court) vacated EPA's redesignation of the Cincinnati-Hamilton area, after concluding that EPA erred in one respect that pertained solely to the Ohio portion of the area. Therefore, pursuant to the Court's decision, EPA is making a technical amendment to the listing of the Ohio portion of the Cincinnati-Hamilton area to reflect the designation of Hamilton, Butler, Clermont, and Warren Counties, Ohio as nonattainment for ozone, with a classification of moderate nonattainment, effective as of July 5, 2000, the effective date of EPA's June 19, 2000 rulemaking. The status of the Kentucky portion of the Cincinnati-Hamilton area has been addressed in a separate rulemaking action.

DATES: This technical amendment is effective on April 11, 2002.

FOR FURTHER INFORMATION CONTACT:

Mary Portanova, Environmental Engineer, EPA Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604; (312) 353-5954, (portanova.mary@epa.gov).

SUPPLEMENTARY INFORMATION:

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I. What Action Are We Taking?

In this technical amendment, EPA is amending 40 CFR 81.336 to designate the Ohio portion of the Cincinnati-Hamilton area as nonattainment for ozone, with a classification of moderate nonattainment. EPA is making this amendment in response to the September 11, 2001 Court decision in *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) which vacated EPA's June 19, 2000 (65 FR 37879) redesignation of the Cincinnati-Hamilton area to attainment and remanded to EPA for further proceedings consistent with the Court's opinion.

II. What Is the Background for This Action?

Under section 107(d) of the Clean Air Act (CAA) as amended in 1977, the Cincinnati metropolitan area was designated as an ozone nonattainment area in March 1978 (43 FR 8962). On November 6, 1991 (56 FR 56694), pursuant to section 107(d)(4)(A) of the CAA as amended in 1990, the Cincinnati-Hamilton area was reaffirmed as nonattainment and classified as moderate, due to monitored violations of the National Ambient Air Quality Standard (NAAQS) for ozone that occurred during the 1987-1989 time frame.

For the 1996-1998 ozone seasons, Kentucky and Ohio recorded three years of complete, quality-assured, ambient air monitoring data for the Cincinnati-Hamilton area that demonstrated attainment with the 1-hour ozone NAAQS, making the area eligible for redesignation. Quality-assured ozone monitoring data for the 1999 and 2000 ozone seasons, and preliminary ozone monitoring data for the 2001 ozone season, show that the area continues to attain the 1-hour ozone NAAQS.

Kentucky and Ohio submitted separate requests to redesignate the Cincinnati-Hamilton area from nonattainment to attainment for the 1-hour ozone NAAQS in 1999. On January 24, 2000 (65 FR 3630) EPA proposed to approve the redesignation requests. This rulemaking also proposed to determine that the Cincinnati-Hamilton area had attained the 1-hour ozone NAAQS by its extended attainment date, and proposed to approve an exemption for the area from nitrogen oxides (NO_x) requirements as provided for in section 182(f) of the CAA. After taking and

considering public comments, EPA issued a final rulemaking (65 FR 37879, June 19, 2000), effective July 5, 2000, which determined that the Cincinnati-Hamilton area had attained the 1-hour ozone NAAQS, and approved Kentucky's and Ohio's requests for the area's redesignation to attainment and their plans for maintaining the 1-hour ozone NAAQS. This final rulemaking action revised 40 CFR 81.336 to list the Cincinnati-Hamilton area as attainment for ozone.

On August 17, 2000, two Ohio residents and the Ohio chapter of the Sierra Club petitioned the United States Court of Appeals for the Sixth Circuit (Court) for review of EPA's redesignation of the Cincinnati-Hamilton area. On September 11, 2001, the Court concluded that EPA erred only on one element that pertained solely to the Ohio portion of the Cincinnati-Hamilton area. The Court thus upheld EPA's actions, with the sole exception of EPA's finding that it could approve Ohio's redesignation request before Ohio had fully adopted all of the Reasonably Available Control Technology (RACT) rules of Part D, Subpart 2 of the Clean Air Act. The Court vacated EPA's action in redesignating the Cincinnati-Hamilton area and remanded to EPA for further proceedings. See *Wall v. EPA*, (265 F.3d 426, 6th Circuit 2001). EPA is therefore amending 40 CFR 81.336 to reflect the Court's decision.

III. What Is the Effect of This Action?

This technical amendment amends the listing in 40 CFR 81.336 to indicate that Hamilton, Butler, Clermont, and Warren Counties, Ohio are designated as nonattainment for ozone, with a classification of moderate nonattainment. This technical amendment has no impact on the official designation of the Kentucky Counties of Boone, Campbell, and Kenton, as identified in 40 CFR 81.318. The attainment status of the Kentucky portion of the Cincinnati-Hamilton area has been addressed in a separate rulemaking action.

The other EPA actions taken in the June 19, 2000, redesignation rulemaking for the Cincinnati-Hamilton area which were upheld by the Court are unaffected by this amendment. EPA's approvals of Kentucky's and Ohio's maintenance plans have remained in place, since the Court upheld our approval of these plans. Similarly, EPA's determination of attainment for the area has remained in place. Thus the requirements of section 172(c)(1), 182(b)(1) and 182(j) concerning the submission of the ozone attainment demonstration and the