

(1) *New Jersey Pierhead Channel Safety Zone.* (i) *Location.* All waters of the New Jersey Pierhead Channel and Kill Van Kull within a 180-yard radius of the fireworks barge in approximate position 40°39'13.5" N 074°04'39.1" W, (NAD 1983) about 125 yards southeast of the New Jersey Pierhead South Entrance Lighted Gong Buoy 1 (LLNR 37010).

(ii) *Enforcement period.* Paragraph (a)(1)(i) will be enforced from 8 p.m. to 9:30 p.m. on Saturday, June 22, and Thursday, July 4, 2002.

(2) *Lower New York Bay Safety Zone.* (i) *Location.* All waters of Lower New York Bay within a 300-yard radius of the fireworks barge in approximate position 40°34'12.0" N 074°04'29.6" W, (NAD 1983) about 800 yards southeast of Midland Beach.

(ii) *Enforcement period.* Paragraph (a)(2)(i) will be enforced from 8:30 p.m. to 10 p.m. on Saturday, June 29, and Sunday, June 30, 2002.

(3) *East River Safety Zone*—(i) *Location.* All waters of the East River within a 180-yard radius of the fireworks barge in approximate position 40°44'51.4" N 073°57'42.9" W (NAD 1983), about 215 yards southeast of Roosevelt Island and all waters bound by the following points: 40°44'53.7" N 073°57'49.3" W; thence to 40°45'06.8" N 073°57'39.1" W; thence to 40°45'00.7" N 073°57'27.0" W; thence to 40°44'48.1" N 073°57'37.3" W; (NAD 1983), thence to the point of origin, between the fireworks barge and the southern 295 yards of Roosevelt Island.

(ii) *Enforcement period.* Paragraph (a)(3)(i) will be enforced from 8 p.m. to 10 p.m. on Saturday, June 29, 2002.

(4) *Arthur Kill Safety Zone*—(i) *Location.* All waters of the Arthur Kill within a 300-yard radius of the fireworks barge in approximate position 40°30'18.0" N 074°15'30" W, (NAD 1983) about 300 yards west of Conference House Park, Staten Island.

(ii) *Enforcement period.* Paragraph (a)(4)(i) will be enforced from 8:30 p.m. to 10 p.m. on Saturday, July 6, and Sunday, July 7, 2002.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 24, 2002.

**C.E. Bone,**

*Captain, U.S. Coast Guard, Captain of the Port, New York.*

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**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

**CGD09-02-037**

**RIN 2115-AA97**

#### **Safety Zone; Detroit River, Grosse Ile, MI**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the 4th of July Celebration fireworks on July 6, 2002. This safety zone is necessary to control vessel traffic within the immediate location of the fireworks launch site and to ensure the safety of life and property during the event. This safety zone is intended to restrict vessel traffic from a portion of the Detroit River.

**DATES:** This temporary final rule is effective from 9 p.m. until 10:30 p.m. on July 6, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [CGD09-02-037] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave., Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, at (313) 568-9558.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the necessary effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and

vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

##### **Background and Purpose**

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with a fireworks display. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Detroit has determined fireworks launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risk.

The safety zone will encompass all waters of the Detroit River surrounding the fireworks launch platform bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°10'4" N, 083°09'3" W. The geographic coordinates are based upon North American Datum 1983 (NAD 83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol representative. Entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

##### **Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed this rule under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation

(DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This determination is based on the minimal time that vessels will be restricted from the safety zone.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit or anchor in the activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone is only in effect from 9 p.m. until 10:30 p.m. the day of the event and allows vessel traffic to pass outside of the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the Detroit River by the Ninth Coast Guard District Local Notice to Mariners, and Marine Information Broadcasts. Facsimile broadcasts may also be made.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction, and you have questions concerning its provisions or options for

compliance, please contact Marine Safety Office Detroit (see **ADDRESSES**).

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).

#### Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### Federalism

The Coast Guard has analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to

safety that may disproportionately affect children.

#### Environment

The Coast Guard has considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, 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.

#### Energy Effects

The Coast Guard has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that Order, because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T09–036 is added to read as follows:

**§ 165.T09-036 Safety Zone; Detroit River, Grosse Ile, MI.**

(a) *Location.* The safety zone will encompass all waters of the Detroit River surrounding the fireworks launch platform bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°(10'4" N, 083°(09'3" W. The geographic coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Effective time and date.* This section is effective from 9 p.m. until 10:30 p.m. on July 6, 2002.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit, or his designated on-scene representative. The designated on-scene Patrol Commander may be contacted via VHF Channel 16. Section 165.23 also contains other applicable requirements.

Dated: June 24, 2002.

**P.G. Gerrity,**

*Commander, U.S. Coast Guard, Captain of the Port Detroit.*

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**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AZ-076-SIP; FRL-7238-8]

#### Finding of State Implementation Plan Inadequacy; Arizona—Salt River Monitoring Site; Metropolitan Phoenix PM-10 Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA finds that the state implementation plan (SIP) for the Metropolitan Phoenix (Maricopa County), Arizona PM-10 nonattainment area is substantially inadequate to attain the 24-hour particulate (PM-10) air quality standard at the Salt River monitoring site, a small subarea of the nonattainment area. As required by the Clean Air Act upon a finding of SIP inadequacy, EPA is requiring that the State of Arizona submit a SIP revision to correct the inadequacy.

**EFFECTIVE DATE:** August 1, 2002.

**ADDRESSES:** You can inspect a copy of the administrative record for this action at EPA's Region IX office during normal business hours. See address below.

This document, the proposal for this final rule, and information on the PM-10 plans for the metropolitan Phoenix

area are also available as electronic files on EPA's Region 9 Web Page at <http://www.epa.gov/region09/air>.

#### FOR FURTHER INFORMATION CONTACT:

Frances Wicher, Office of Air Planning (AIR-2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. (415) 947-4155. Email:

[wicher.frances@epa.gov](mailto:wicher.frances@epa.gov).

#### SUPPLEMENTARY INFORMATION:

**Note:** In this document, "we", "us" and "our" refer to EPA. "CAA or the Act" refers to the Clean Air Act as amended in 1990 and subsequently. "PM-10" refers to particulate matter with a diameter of 10 microns or less. "24-hour standard" refers to the 24-hour National Ambient Air Quality Standard for PM-10 established at 40 CFR 50.6(a). "SIP" or "plan" refers to a state implementation plan. "ADEQ" is the Arizona Department of Environmental Quality. "BACM" and "RFP" are acronyms, respectively, for best available control measure and reasonable further progress.

### I. Background to Today's Action

The Phoenix area is classified as a "serious" PM-10 nonattainment area and violates both the annual PM-10 standard of 50 µg/m<sup>3</sup> and the 24-hour standard of 150 µg/m<sup>3</sup>. 40 CFR 50.6. Between 1997 and 2001, Arizona has made several SIP submittals that collectively address the CAA's planning requirements for serious PM-10 nonattainment areas for both PM-10 standards. We have acted on these submittals in several rulemakings. For more background on the Phoenix PM-10 SIP and our actions on it, please see 65 FR 19964, 19965 (April 13, 2000) and 66 FR 50252, 50253 (October 2, 2001) and the Technical Support Documents for those actions.

In today's action, we are concerned with the Phoenix PM-10 SIP's provisions for attaining the 24-hour standard. In May, 1997, ADEQ submitted the *Plan for Attainment of the 24-hour PM-10 Standard—Maricopa County PM-10 Nonattainment Area*, as a SIP revision. This plan, known as the microscale plan, included attainment and RFP demonstrations for the 24-hour PM-10 standard at the Salt River air quality monitoring site as well as three other "microscale" monitoring sites in the Phoenix area (Maryvale, Gilbert, and West Chandler). The demonstration for the Salt River site showed that, with additional controls adopted by the local air quality agency, the Maricopa County Environmental Services Department, attainment at the site would occur by May 1998. We approved the attainment and RFP demonstrations for the Salt River site and Maricopa County's controls on August 4, 1997. See 62 FR

41856. Since the microscale plan, Arizona has made no other submittals that address the 24-hour exceedances at the Salt River site.

According to its approved attainment demonstration, the Salt River site should not have violated the 24-hour PM-10 standard after May, 1998. See 62 FR 31026, 31035. The site, however, continues to violate the standard.<sup>1</sup> Based on data recorded in EPA's Aerometric Information Retrieval System (AIRS), the Salt River monitor had 51 expected exceedances in 1999, 43 expected exceedances in 2000, and 19 expected exceedances through 3 quarters in 2001 or an average of at least 37 expected exceedances per year over the past three years. The 24-hour PM-10 standard is violated when the expected number of exceedances averages more than 1 per year over a three year period. See 40 CFR 50.6(a). Thus the continuing violations at the Salt River monitor clearly show that the existing attainment demonstration for the site is faulty.

To assure that SIPs provide for timely attainment, section 110(k)(5) authorizes EPA to find that a SIP is substantially inadequate to meet an CAA requirement, and to require ("call for") the State to submit, within a specified period not to exceed 18 months, a SIP revision to correct the inadequacy. This requirement for a SIP revision is known as a "SIP call."

On April 18, 2002 at 67 FR 19148, we published our proposed finding that the Arizona SIP is inadequate to assure attainment of the 24-hour PM-10 standard at the Salt River Site. Based on this proposed finding, we also proposed a SIP call that would require Arizona to revise its SIP to correct the deficiency and submit the corrections no later than 18 months after the publication of the final rule. We requested comments on our proposals and provided a 30-day comment period, which closed on May 20, 2002. We received no comments.

### II. The Inadequacy Finding and Call for a SIP Revision

#### A. Inadequacy Finding and SIP Call

Because the attainment demonstration approved into the Phoenix area PM-10 SIP in 1997 is faulty and there has been no substitute attainment demonstration submitted to date, we find that the

<sup>1</sup> The Salt River site, approximately 32 square miles in area or about 1 percent of the 2880 square mile Phoenix nonattainment area, is located in an industrial area and its 24-hour violations are most likely due in large part to the industrial sources that surround it. This is in marked contrast to other monitoring sites in the rest of the Phoenix nonattainment area where 24-hour exceedances are almost exclusively due to windblown fugitive dust.