

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Parts 117 and 165

[CGD09-03-204]

[RIN 1625-AA09; 1625-AA00]

#### Temporary Regulations, Saginaw River, August 14-18, 2003

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish proposed temporary safety zones and drawbridge suspension regulations during the Bay City Tall Ship Celebration to be held August 14-18, 2003 located on the Saginaw River in Bay City, Michigan. These safety zones are necessary to promote the safe navigation of vessels and the safety of life and property during the periods of heavy vessel traffic expected during these events. These safety zones are intended to restrict vessel traffic from a portion of Saginaw Bay and the Saginaw River.

**DATES:** Comments and related material must reach the Coast Guard on or before April 30, 2003.

**ADDRESSES:** You may mail or hand-deliver comments and related material to: Commanding Officer, U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave, Detroit MI 48207-4380. Marine Safety Office Detroit maintains the public docket for this rulemaking. Comments and material received from the public will become part of this docket and will be available for inspection and copying at the Coast Guard Marine Safety Office between the hours of 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Brandon Sullivan, Marine Safety Office Detroit, at (313) 568-9580.

**SUPPLEMENTARY INFORMATION:**

### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09-03-204), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Comments and attachments should be submitted on 8 1/2" x 11" unbound paper in a format suitable for copying. Persons requesting acknowledgement of receipt of comments should include a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Detroit at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Background and Purpose

Bay City Tall Ship Celebration 2003 is a community-wide maritime festival in Bay City, MI, featuring a 12-mile ship parade, fireworks, and in-port viewing and tours of moored historic tall ship vessels between August 14 and August 18, 2003. The parade of ships is the start of the Bay City Celebration. The parade will form in Saginaw Bay and traverse the Saginaw River to the Liberty Bridge and the Friendship Pier.

Vessels will moor at docks along Veterans Park and Wenonah Park between the Liberty Bridge and the Friendship Pier in Bay City. We are proposing to establish a temporary moving safety zone around the parade vessels during the parade to ensure the safety of passengers, crew and visitors. A second proposed temporary safety zone would be established, once the vessels are moored, between the Liberty Bridge and the Friendship Pier (by light buoy 28) mile marker six. Fireworks are scheduled to take place in Veterans Park on August 16, 2003 from 9:30 p.m. to 11 p.m. We believe the proposed temporary

safety zone, which would already be in place for the moored vessels, would be sufficient to protect waterside viewers during the event.

These temporary regulations are prompted by the high degree of control necessary to ensure the safety of both participating and spectator vessels during the events occurring in Saginaw Bay and the Saginaw River. These proposed regulations provide guidance on vessel movement controls and proposed safety zones that will be in effect at specified marine locations during specified times. The temporary regulations are specifically designed to minimize adverse impacts on commercial users of the affected waterways.

### Discussion of Proposed Rule

The events planned for The Bay City Tall Ships Celebration for the period August 14-18, 2003 are as follows:

(1) *Parade of Ships, August 14, 2003.* Bay City Tall Ship Celebration 2003 will hold its tall ship parade on August 14, 2003. The parade is expected to begin at 2 p.m. in Saginaw Bay. To accommodate the start time, tall ships shall begin mustering at approximately 1 p.m. in Saginaw Bay, near the starting point at position 43°43'54" N, 83°46'54" W (northeast of Saginaw Bay Channel Light "12" (LLNR 10675)).

The parade route starts abeam of Saginaw Bay Channel Light "12" and proceeds up the Saginaw Bay Channel into the Saginaw River. It continues up the Saginaw River to a point near the Veterans Memorial Park and Wenonah Park located between the Liberty Bridge and the Friendship Pier, where the parade will end and the parade vessels will moor.

To ensure the safety of the public during the parade, shoreside public safety vehicles must be fully capable of crossing the Saginaw River. To accommodate this public safety need, the Independence Bridge and the Liberty Bridge will open for vessel traffic on a rotating basis. Thus, both bridges will not be open at the same time.

The Independence Bridge will open for the passage of two to three parade vessels and then close. The vessels will then proceed up the river to the Liberty Bridge, which will open to allow passage. After the Liberty Bridge has closed, the Independence Bridge will open to allow two or three more parade

vessels to pass. Once the Independence Bridge is closed, the Liberty Bridge will open, allowing those vessels to pass. Vessels will continue to transit through the Independence and Liberty Bridges in this manner until all parade vessels have safely passed.

The parade will end near Veterans Memorial Park and Wenonah Park in Bay City, Michigan. Vessels will moor along the waterfront between the Liberty Bridge and the Friendship Pier.

The Coast Guard proposes to establish a temporary moving safety zone around the participating vessels for the duration of the parade. The proposed moving safety zone will be enforced when the parade starts at 43°43'54" N, 83°46'54" W (Saginaw Bay Channel Light "12" (LLNR 10675)), and will remain in effect until all parade vessels are moored. For the lead parade vessel, the safety zone would consist of one mile ahead and 100 yards in all other directions. For all other vessels, the moving safety zone would consist of 100 yards in any direction. The proposed temporary moving safety zone will be enforced from 1 p.m. on August 14, 2003 and remain in effect until the last official parade vessel is safely moored (roughly 9 p.m.) on August 14, 2003; or unless terminated sooner by the Captain of the Port Detroit (COTP).

Only parade vessels and official patrol craft will be permitted in the proposed moving safety zone during the ship parade. Any other vessel desiring to transit this zone, prior to transiting, must request permission from the COTP Detroit, or his designated on scene representative which will be the Patrol Commander.

Spectator vessels are requested to anchor in the waters of the Saginaw River outside of the proposed moving safety zone. The Captain of the Port Detroit asks that all spectator craft in the Saginaw River remain at anchor during the parade. For your own safety, it is recommended that spectator vessels be at anchor no later than 1 p.m. on August 14, 2003. The Coast Guard asks that they remain at anchor until the transit of the final parade vessel.

Mariners are cautioned that the areas designated for spectator craft anchoring have not been subject to any special survey or inspection and that charts may not show all riverbed obstructions or the shallowest depths. They are not special anchorage areas. Spectator vessels choosing waterside locations along the parade route must display anchor lights or shapes, as required by the navigation rules. Vessels anchoring in the Saginaw River, outside the channel, are requested to proceed at speeds that will create minimal wake

and not to exceed five (5) miles per hour.

Vessel operators intending to anchor along the parade route during the Tall Ship Celebration are advised to fully anticipate their length of stay and to the greatest extent practicable, comply with the recommended operational guidelines. Operators should not leave unattended vessels in the river along the parade route at any time and should not nest or tie off to other vessels, buoys, or to the adjacent shoreline.

Due to the number of spectator craft expected, vessel operators should remember it would be virtually impossible to move safely to new positions, as maneuvering between anchored vessels is not advisable. Accordingly, vessels should have sufficient facilities on board to retain all garbage and untreated sewage. Discharge of either in any waters of the United States, which include all waters addressed in this rule, is strictly forbidden. Violators may be assessed a civil penalty of up to \$25,000.

(2) *Mooring of Tall Ships, August 14–18, 2003.* After the arrival of the tall ships after the parade, a temporary proposed safety zone will be established in all waters of the Saginaw River between the Liberty Bridge and the Friendship Pier within 50 feet of any official parade vessel. This proposed safety zone will be in effect until the tall ships depart Bay City. Vessels may be permitted to operate in this proposed safety zone, but only after permission by the COTP Detroit's on scene representative, which will be the Patrol Commander. Spectator vessels will be directed out of this area altogether during the fireworks event, scheduled to take place between 9:30 p.m. and 11 p.m. on Saturday, August 16, 2003.

These safety rules are necessary in order to provide adequate controls to ensure the safety of the tall ships, their crews, and shore side visitors who may be boarding these vessels while they are moored.

If changes are made to these proposed rules, or if the Captain of the Port Detroit determines additional controls are necessary, a notice will be published in the **Federal Register**. Details of these events and of the special regulations in effect for each event will also be published in the Local Notice to Mariners. Additionally, appropriate Safety Marine Information Broadcasts will be initiated for each event. For all events, vessel operators will be required to maneuver as directed by on-scene Coast Guard patrol personnel. Coast Guard patrol personnel enforcing regulations for safety zones, anchorages, and regulated areas for these events

include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local law enforcement vessels. Violators of Coast Guard proposed safety zone regulations may result in civil penalties of up to \$25,000.

With the many sailing vessels and spectator craft arriving in Bay City for this event, additional restrictions on vessel movements may be imposed in the form of security zones or other emergency measures to safeguard specific individual vessels. In all cases, further restrictions on vessel movements will be held to the minimum necessary to ensure vessel and personal safety. Every attempt will be made to inform the public regarding any additional restrictions COTP Detroit may feel necessary to impose. If possible, details of these restrictions will be published in the final rule for this event. Otherwise, they will appear separately as final rules in emergency rulemaking.

#### Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

The proposed temporary moving safety zone will only be during a six hour time period on August 14, 2003. The additional proposed safety zone will be enforced after the mooring of the Parade Vessels. On August 14, 2003, the combination of parade vessels and large numbers of recreational vessels will cause potential disruptions to normal port activity. However, due to the temporary nature of these disruptions, they can be planned for in advance to minimize the economic hardship that might result. The largest segments of the port community facing disruptions are the operators of deep draft vessels and the terminals they call on. In addition to the extended advance notice of these events provided by the COTP, deep draft vessel traffic will be accommodated as best as possible on these two days.

The Coast Guard expects that the amount of publication and advertisement about these events and about these proposed regulations will allow the industry sufficient time to

adjust schedules and minimize adverse impacts. Weighted against and counterbalanced with adverse impacts are the favorable economic impacts that these events will have on commercial activity in the area as a whole from the boaters and tourists these events are expected to attract.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), an initial review was conducted to determine whether this proposed rule would have a significant economic 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of a safety zone. However, we believe this would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would be in effect for only a few hours on the day of the event on an annual basis. Vessel traffic can safely pass outside the proposed safety zone during the events, and, with the permission of the COTP or his on scene representative, which will be the Patrol Commander, traffic would be allowed to pass through the safety.

The exact times and dates will be published in the Ninth Coast Guard District Local Notice to Mariners, broadcasts made via the Broadcast Notice to Mariners and facsimile sent to operators of vessels who might be in the affected area who request such. 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. 104–221), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking.

If this rule would 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*).

#### Collection of Information

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

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### 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 proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed 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

We have analyzed this proposed 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive

Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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

We have 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.

#### Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraphs 34 (f, g, and h) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A written “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

#### List of Subjects

33 CFR Part 117

Bridges.

33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 117 and 165 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

2. From 8 a.m. until 1 p.m., Thursday, August 14, 2003, in § 117.647, suspend paragraph (b) and add temporary paragraphs (e) and (f) to read as follows:

**§ 117.647 Saginaw River.**

\* \* \* \* \*

(e) The draws of the Veterans Memorial bridge, mile 5.60, and Lafayette Street bridge, mile 6.78 in Bay City, shall open on signal from March 16 through December 15, except as follows:

(1) From 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:30 p.m. except Saturdays, Sundays, and holidays observed in the locality, the draws need not be opened for the passage of vessels of less than 50 gross tons.

(2) From 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m. except on Sundays and Federal holidays, the draws need not be opened for the passage of down-bound vessels of over 50 gross tons.

(3) From 8 a.m. to 8 p.m. on Saturdays, Sundays, and Federal holidays, the draws of the Independence and Veterans Memorial bridges need not be opened for the passage of pleasure craft except from three minutes before to three minutes after the hour and half-hour.

(4) From 8 a.m. to 8 p.m. on Saturdays, Sundays, and Federal holidays, the draws of the Liberty Street and Lafayette Street bridges need not be opened for the passage of pleasure craft, except from three minutes before to three minutes after the quarter hour and three-quarter hour.

(f) The draws of the Independence bridge, mile 3.88, and the Liberty Street Bridge, mile 4.99, from 1 p.m. until 9 p.m., Thursday, August 14, 2003, shall be closed to navigation, except that the draws shall open upon signal for official vessels participating in the Tall Ship Celebration 2003 Parade of Ships.

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

3. 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, and 160.5; 49 CFR 1.46.

4. Add temporary § 165.T09–204 to read as follows:

**§ 165.T09–204 Safety Zone; Tall Ship Celebration 2003 Bay City, MI.**

(a) *Safety zones.* The following are safety zones:

(1) *Saginaw River Moored Tall Ships Safety Zone, Veterans Park and Wenonah Park, Saginaw River, Bay City, MI*

(i) *Location.* The following area is a safety zone: All waters of the Saginaw River between the Liberty Bridge at mile 4.99 and the Friendship Pier at mile 6.1

within 50 ft of any participating moored Tall Ships.

(ii) *Enforcement periods.* The safety zones in paragraph (a)(1) of this section will be enforced whenever a tall ship is moored at Veterans Park or Wenonah Park between the Liberty Bridge and the Friendship Pier, from 1 p.m. on August 14, 2003 to 9 p.m. on August 18, 2003.

(iii) *Special Regulations.*

(A) Vessels operating in the Saginaw River within the safety zone during the effective period must proceed at no wake speeds, and not within 50 feet of the hull of any moored tall ship, in traffic patterns as directed by on-scene Coast Guard patrol craft, so as not to hazard tall ships or shoreside visitors boarding tall ships.

(B) Vessels shall remain outside the designated hazard area in the safety zone, as directed by on-scene Coast Guard personnel, during any evening fireworks event.

(2) *Bay City Tall Ships Parade Moving Safety Zone.*

(i) *Location.* The following area is a moving safety zone: all waters of the Saginaw Bay and Saginaw River one mile ahead and 100 yard in every other direction of the lead official parade vessel; for all other official parade vessels, 100 yards in any direction from when the vessels pass the starting position at 43°43'54" N, 83°46'54" W (northeast of Saginaw Bay Light "12" (LLNR 10675)), and remaining in effect until the official parade vessels are moored between Veterans Memorial Park and Wenonah Park (between the Liberty Bridge and the Friendship Pier).

(ii) *Enforcement period.* Paragraph (a)(2) of this section will be enforced from 1 p.m. on Thursday, August 14, 2003 until 9 p.m. on Thursday, August 14, 2003, until each participating Tall Ship is safely moored in Bay City.

(b) *Regulations.*

(1) The general regulations in 33 CFR 165.23 apply to the zones in this section.

(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. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed. U.S. Coast Guard Auxiliary, representatives of the event organizer, and local or state officials may be present to inform vessel operators of this regulation and other applicable laws.

Dated: March 5, 2003.

**Ronald F. Silva,**

*Rear Admiral, Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 03–6917 Filed 3–21–03; 8:45 am]

BILLING CODE 4910–15–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[PA188–4204b; FRL–7465–2]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO<sub>x</sub> RACT Determinations for PPG Industries, Inc.**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing reasonably available control technology (RACT) determinations for PPG Industries, Inc. (PPG). PPG is a major source of nitrogen oxides (NO<sub>x</sub>) located in Crawford County, Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by April 23, 2003.

**ADDRESSES:** Written comments should be addressed to Walter Wilkie, Deputy Branch Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and