

**§ 199.14 Provider reimbursement methods.**

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(k) Reimbursement of Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS). Reimbursement of DMEPOS is based on the same amounts established under the Medicare DMEPOS fee schedule under 42 CFR part 414, subpart D.

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Dated: April 9, 2003.

**L.M. Bynum,***Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[CGD09-03-206]

RIN 1625-AA00

RIN 1625-AA11

**Regulated Navigation Area and Safety Zone; Huntington Cleveland Harborfest and Parade of Sail, Cleveland Harbor, Cleveland, OH****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary regulated navigation area during the Huntington Cleveland Harborfest, and a moving safety zone for the Parade of Sail in the Port of Cleveland, Ohio. These regulations are necessary to manage vessel traffic and ensure the safety of both spectators and participant vessels. These regulations are intended to restrict vessel traffic from a portion of Lake Erie in the vicinity of Cleveland, Ohio.

**DATES:** Comments must reach the Coast Guard on or before May 10, 2003.

**ADDRESSES:** You may mail comments and related material to U.S. Coast Guard Marine Safety Office (MSO) Cleveland, 1055 East Ninth Street, Cleveland, Ohio, 44114. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and available for inspection or copying at MSO Cleveland between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Allen Turner, Chief, Port

Operations Department, MSO Cleveland at (216) 937-0128.

**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 (CGD09-03-206), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please 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 plan to hold a public meeting. But you may submit a request for a meeting by writing to MSO Cleveland 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**

During Huntington Cleveland Harborfest, tall ships will moor in Cleveland Harbor at the Cleveland Port Authority and along Cleveland's Inner Harbor. A regulated navigation area (RNA) will be established inside Cleveland's break wall to protect those boarding the tall ships and spectator vessels from vessels transiting at excessive speeds creating large wakes, and also to prevent obstructed waterways.

A moving safety zone will be established around the Parade of Sail during the transit through Cleveland Harbor and Lake Erie in the vicinity of Cleveland, Ohio. A large number of spectator craft is expected which would result in congestion, the safety zone will ensure that spectator craft do not impede the path of the parade vessels.

**Discussion of Proposed Rule**

The RNA would be established from 12 p.m. on Wednesday, July 9, 2003, until 1 p.m. on Monday, July 14, 2003. The RNA would encompass all of Cleveland Harbor between a perpendicular line drawn from Dock 28 of Cleveland Port Authority across the breakwall; and a perpendicular line drawn from the northwestern edge of

Burke Lake Front Airport across to the breakwall. Within the RNA, no vessel shall exceed 5 mph nor produce a wake. Any vessel within the RNA shall not pass within 50 feet of a moored tall ship. Any vessel within the RNA must adhere to the direction of the Captain of the Port or the on scene representative who will be the Patrol Commander.

On July 9, 2003, from 2 p.m. until the 8 p.m. the Parade of Sail, a moving safety zone would be established around all tall ships participating in the parade. The safety zone would extend 100 yards in all directions of each vessel officially participating in the parade. The parade will begin approximately 2 miles northwest of Cleveland Harbor inlet and pass through Cleveland Harbor via the main entrance channel. After coming through the main entrance, the parade will travel east down the inner harbor to the eastern end of the break wall and exit through the eastern inlet. The parade will turn around in Lake Erie east of the harbor, and then reenter the harbor through the eastern inlet of the break wall south of the original track. The safety zone will be in effect until the last vessel moors at approximately 8 p.m.

**Regulatory Evaluation**

This proposed 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 it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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.

This determination is based on the short amount of time that vessels will be restricted from the zones, and the actual location of the safety zones within the waterways.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 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 commercial vessels intending to transit a portion of an activated safety zone.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: the proposed zone is only in effect for few hours on the day of the event. Vessel traffic can safely pass outside the proposed safety zone during the events. In cases where recreational boat traffic congestion is greater than expected and consequently obstructs shipping channels, commercial traffic may be allowed to pass through the safety zone with the permission of the Captain of the Port Cleveland. Before the effective period, the Coast Guard will issue maritime advisories to users who might be impacted through notification in the Ninth Coast Guard District Local Notice to Mariners, and through Marine Information Broadcasts. The Coast Guard has not received any reports from small entities negatively affected during previous similar events.

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), we want 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 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 Cleveland (*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

We have analyzed this proposed rule under Executive Order 13132 and have 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 proposed rule would 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 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

The Coast Guard has 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

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.

#### Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph 32(g) 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 for inspection or copying where indicated under **ADDRESSES**.

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

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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, and 160.5; Department of Homeland Security Delegation No. 0170.

2. Add temporary § 165.T09-206 to read as follows:

#### § 165.T09-206 Huntington Cleveland Harborfest and Parade of Sail.

(a) Regulated navigation area. (1) *Location.* All waters of Cleveland Harbor, including the Inner Harbor, encompassed by a line starting at 41°30'49.38" N, 081°41'37.2" W (northwest corner of Burke Lakefront Airport); then northwest to 41°31'1.2" N, 081°41'49.2" W; then southwesterly following the breakwall to 41°30'41.4" N, 081°42'25.2" W; then southeasterly to 41°30'27" N, 081°42'13.3" W (extending directly across the harbor from the northwestern corner of Dock 28 of the Cleveland Port Authority to the breakwall); then following the contours of the waterfront back to the point of origin including all portions of the Rock and Roll Museum inner harbor. All coordinates are North American Datum 1983.

(2) *Enforcement period.* This section is effective from 12 p.m. on Wednesday, July 9, 2003 through 1 p.m. on Monday, July 14, 2003. The section is effective during that same period.

(3) *Special regulations.* Vessels within the regulated navigation area (RNA) shall not exceed 5 miles per hour or shall proceed at no-wake speed, which ever is slower. Vessels within the RNA shall not pass within 20 feet of a moored tall ship. Vessels within the RNA must adhere to the direction of the Patrol Commander or other official patrol craft.

(b) *Safety zone.*—(1) *Location.* The following is a moving safety zone: All navigable waters and adjacent shoreline 100 yards ahead of the first official parade vessel, 50 yards abeam of each parade vessel, and 50 yards astern of the last vessel in the parade between the muster point at 41°31'30" N, 081°45'00" W until each official parade vessel is moored.

(2) *Enforcement period.* This section is effective from 12 p.m. on Wednesday, July 9, 2003 through 1 p.m. on Monday, July 14, 2003. Paragraph (b)(1) of this section will be enforced from 2 p.m. until 8 p.m. on Wednesday, July 9, 2003.

(c) *Regulations.* All vessel operators shall comply with the instructions of the U.S. Coast Guard Captain of the Port Cleveland or his on-scene representative which will be the Patrol Commander. Permission to deviate from the above rules must be obtained from the Captain of the Port or the Patrol Commander via VHF/FM radio, Channel 6 or by telephone at (216) 937-0111.

Dated: April 2, 2003.

**Ronald F. Silva,**

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

[FR Doc. 03-9358 Filed 4-15-03; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 275-0384b; FRL-7471-3]

#### Revisions to the California State Implementation Plan, Lake County Air Quality Control District and San Diego County Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Lake County Air Quality Management District (LCAQMD) and San Diego County Air Pollution Control

District (SDCAPCD) portions of the California State Implementation Plan (SIP). The LCAQMD and SDCAPCD revisions concern the emission of particulate matter (PM-10) from open burning. We are proposing to approve the local rules that regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by May 16, 2003.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revisions and TSDs at the following locations:

Air and Radiation Docket and Information Center, U.S.

Environmental Protection Agency,  
(Mail Code 6102T), Room B-102,  
1301 Constitution Avenue, NW.,  
Washington, DC 20460.

California Air Resources Board,  
Stationary Source Division, Rule  
Evaluation Section, 1001 "I" Street,  
Sacramento, CA 95814.

Lake County Air Quality Management  
District, 885 Lakeport Boulevard,  
Lakeport, CA 95453.

San Diego County Air Pollution Control  
District, 9150 Chesapeake Drive, San  
Diego, CA 92123.

A copy of a rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. This is not an EPA website and it may not contain the same version of the rule that was submitted to EPA. Readers should verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval and be aware that the official submittal is only available at the agency addresses listed above.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

**SUPPLEMENTARY INFORMATION:** This proposal addresses the approval of local LCAQMD sections 226.5, 232.1, 238.5, 249.3, 250.5, 431.5, 431.7, 432.5, 433, 433.5, 436, and 436.5 and SDAPCD rule 101. This proposal also addresses the rescission of SIP LCAQMD section 442 and SDCAPCD rules 101 through 112. In the rules section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we

receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 5, 2003.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 03-9042 Filed 4-15-03; 8:45 am]

**BILLING CODE 6560-50-M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[DC-T5-2003-01b; FRL-7483-7]

#### Clean Air Act Approval of Operating Permits Program Revision; District of Columbia

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to maintain full approval of the title V operating permit program of the District of Columbia. In a notice of deficiency (NOD) published in the **Federal Register** on December 21, 2001 (66 FR 65947), EPA notified the District of Columbia of EPA's finding that the District's provisions for providing public notification of permitting actions did not fully comply with the requirements of the Clean Air Act (CAA) and its implementing regulations. On April 4, 2003, the District of Columbia submitted revisions to the public notification requirements of the operating permit program. The program revision adequately resolves the deficiency identified in the NOD and the District of Columbia maintains final full approval of the Clean Air Act title V operating permit program and this action proposes to approve the amendment. In the Final Rules section of this **Federal Register**, EPA is approving the District's operating permit program 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