

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0219]

RIN 1625-AA00

Safety Zones: Annual Events Requiring Safety Zones in the Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes establishment of safety zones for annual events in the Captain of the Port Buffalo zone. This proposed rule consolidates current regulations establishing safety zones for annual fireworks events in the former Captain of the Port Cleveland Zone and the former Captain of the Port Buffalo Zone. In addition, it adds events not previously published in Coast Guard regulations. These safety zones are necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays or other events.

DATES: Comments and related materials must reach the Coast Guard on or before May 5, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-2008-0219 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Online: <http://www.regulations.gov>.

(2) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) Hand delivery: Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) Fax: 202-493-2251.

FOR FURTHER INFORMATION CONTACT: CDR Joseph Boudrow, U.S. Coast Guard Sector Buffalo; (716) 843-9572.

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to [http://](http://www.regulations.gov)

www.regulations.gov and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0219), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name, mailing address, and an e-mail address or other contact information in the body of your document to ensure that you can be identified as the submitter. This also allows us to contact you in the event further information is needed or if there are questions. For example, if we cannot read your submission due to technical difficulties and you cannot be contacted; your submission may not be considered. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose 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.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time, click on "Search for Dockets," and enter the docket number for this rulemaking (USCG-2008-0219) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

C. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on

behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

SUPPLEMENTARY INFORMATION:

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, Coast Guard Sector Buffalo, 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

On July 22, 2005, the Coast Guard consolidated the Captain of the Port Cleveland zone and the Captain of the Port Buffalo zone into one zone re-defining the Captain of the Port Buffalo zone. This proposed rule will consolidate the regulations found in 33 CFR 165.202, Safety Zones; Annual Fireworks Events in the Captain of the Port Cleveland Zone, the regulations found in 33 CFR 165.914, Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone so that all the annual fireworks events in the current Captain of the Port Buffalo Zone are found in one CFR section. In addition this proposal adds events not previously published in the CFR.

These safety zones are necessary to protect vessels and people from the hazards associated with fireworks displays or other events. Such hazards include obstructions to the waterway that may cause marine casualties and the explosive danger of fireworks and debris falling into the water that may cause death or serious bodily harm.

Discussion of Proposed Rule

The proposed rule and associated safety zones are necessary to ensure the safety of vessels and people during annual firework events in the Captain of the Port Buffalo area of responsibility that may pose a hazard to the public. This proposal consolidates the events listed in §§ 165.202 and 165.914 into a new section 165.939. This new section unites all the annual Firework events in the recently consolidated COTP Buffalo zone into one section of the CFR. In addition, there are several events that are added and some events that have been deleted in this new section.

The proposed safety zones will be enforced only immediately before, during, and after events that pose

hazard to the public, and only upon notice by the Captain of the Port.

The Captain of the Port Buffalo will notify the public that the zones in this proposal are or will be enforced by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is cancelled.

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

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The Coast Guard's use of these safety zones will be periodic, of short duration, and designed to minimize the impact on navigable waters. These safety zones will only be enforced immediately before, during, and after the time the events occur. Furthermore, these safety zones have been designed to allow vessels to transit unrestricted to portions of the waterways not affected by the safety zones. The Coast Guard expects insignificant adverse impact to mariners from the activation of these safety zones.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered 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 of operators of vessels intending to transit or anchor in the areas designated as safety zones in subparagraphs (1) through (28) during the dates and times the safety zones are being enforced.

These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule would be in effect for short periods of time, and only once per year, per zone. The safety zones have been designed to allow traffic to pass safely around the zone whenever possible and vessels will be allowed to pass through the zones with the permission of the Captain of the Port.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed 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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact CDR Joseph Boudrow, Prevention Department, Coast Guard Sector Buffalo, Buffalo, NY, at (716) 843–9572. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule calls 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 will not result in such expenditure, we nevertheless discuss its effects elsewhere in this preamble.

Taking of Private Property

This proposed rule will not effect the 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

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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.

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these safety zones and fishing rights protection need not be incompatible. We have also determined that this proposed 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this proposed rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this section is not likely to have a significant effect on the human environment.

A preliminary "Environmental Analysis Check List" supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, and 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.939 to read as follows:

§ 165.939 Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone.

(a) *Safety Zones*. The following areas are designated Safety zones and are listed geographically from New York to Ohio.

(1) *Boldt Castle 4th of July Fireworks, Heart Island, NY.*

(i) *Location*. All waters of the St. Lawrence River within a 500-foot radius of the land position: 44°20'39" N, 075°55'16" W; at Heart Island, NY. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is effective from 9pm to 10pm on July 4 of each year.

(2) *Clayton Chamber of Commerce Fireworks, Calumet Island, NY.*

(i) *Location*. All waters of the St. Lawrence River within a 500-foot radius of land position: 44°15'05" N, 076°05'35" W; in Calumet Island Harbor, NY. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is effective from 9 p.m. to 10 p.m. on July 1 of each year.

(3) *French Festival Fireworks, Cape Vincent, NY.*

(i) *Location*. All waters of the St. Lawrence River within a 500-foot radius of land position: 44°07'53" N, 076°20'02" W. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is effective from 9:30 p.m. to 10:30 p.m. on the first or second weekend of July each year.

(4) *Brewerton Fireworks, Brewerton, NY.*

(i) *Location*. All waters of Lake Oneida within a 500-foot radius of barge position: 43°14'15" N, 076°08'03" W; in Brewerton, NY. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is effective from 9:30 p.m. to 10:30 p.m. on the first weekend of July each year.

(5) *Celebrate Baldwinsville Fireworks, Baldwinsville, NY.*

(i) *Location*. All waters of the Seneca River within a 500-foot radius of land position: 43°09'21" N, 076°20'01" W. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is effective from 9:30 p.m. to 10 p.m. on the third weekend of September each year.

(6) *Island Festival Fireworks Display, Baldwinsville, NY.*

(i) *Location*. All waters of the Seneca River within a 500-foot radius of land position: 43°09'25" N, 076°20'21" W; in Baldwinsville, NY. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is effective from 10 p.m. to 10:30 p.m. on the first weekend of July each year.

(7) *Seneca River Days, Baldwinsville, NY.*

(i) *Location*. All waters of the Seneca River within a 500-foot radius of land position: 43°09'25" N, 076°20'21" W; in Baldwinsville, NY. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is effective from 9:30 p.m. to 10:30 p.m. on the first weekend of July each year.

(8) *Oswego Harborfest, Oswego, NY.*

(i) *Location*. All waters of Lake Ontario within a 1,000 foot radius of barge position: 43°28'10" N, 076°31'04" W; in Oswego, NY. (DATUM: NAD 83).

(ii) *Enforcement Date*. This section is effective from 9 p.m. to 10 p.m. on the last Saturday in July each year.

(9) *Village Fireworks, Sodus Point, NY.*

(i) *Location*. All waters of Sodus Bay within a 500-foot radius of land position: 43°16'27" N, 076°58'27" W; in Sodus Point, NY. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is effective from 10 p.m. to 10:30 p.m. on the first Saturday in July each year.

(10) *City of Syracuse Fireworks Celebration, Syracuse, NY.*

(i) *Location*. All waters of Onondaga Lake within a 350-foot radius of land position: 43°03'37" N, 076°09'59" W; in Syracuse, NY. (DATUM: NAD 83).

(ii) *Enforcement Date*. This section is effective from 9:30 p.m. to 10:30 p.m. on the last weekend in June each year.

(11) *Tom Graves Memorial Fireworks, Port Bay, NY.*

(i) *Location*. All waters of Port Bay within a 500-foot radius of barge position: 43°17'46" N, 076°50'02" W; in Port Bay, NY. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is effective from 10 p.m. to 10:30 p.m. on the first weekend in July each year.

(12) *Rochester Harbor and Carousel Festival, Rochester, NY.*

(i) *Location*. All waters of Lake Ontario within a 500-foot radius of land position: 43°15'21" N, 077°36'19" W in Rochester, NY. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is effective from 8 p.m. to 10 p.m. on June 24th of each year.

(13) *North Tonawanda Fireworks Display, Tonawanda, NY.*

(i) *Location.* All waters of the East Niagara River within a 500-foot radius of a barge located at position: 43°01'12" N, 078°53'36" W; in North Tonawanda, NY. (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 10:15 p.m. on July 4th of each year.

(14) *Tonawanda's Canal Fest Fireworks, Tonawanda, NY.*

(i) *Location.* All waters of the East Niagara River within a 500-foot radius of barge position: 43°01'12" N, 078°53'36" W; in Tonawanda, NY. (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:30 p.m. to 10:30 p.m. on the fourth Sunday in July each year.

(15) *Celebrate Erie Fireworks, Erie, PA.*

(i) *Location.* All waters of Presque Isle Bay within an 800-foot radius of land position: 42°08'19" N, 080°05'29" W; at the end of Dobbins Landing Pier, Erie, PA. (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 10:30 p.m. on the third weekend in August each year.

(16) *Ashtabula Area Fireworks, Walnut Beach, Ashtabula, OH.*

(i) *Location.* All waters of Lake Erie and Ashtabula Harbor within a 300-yard radius of land position: 41°54.167' N, 080°48.416' W; in Ashtabula, OH. (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 11 p.m. on the second weekend in July each year.

(17) *Fairport Harbor Mardi Gras, Fairport Harbor, OH.*

(i) *Location.* All waters of Fairport Harbor and Lake Erie within a 300-yard radius of land position: 41°45.500' N, 081°16.300' W; east of the harbor entrance at Fairport Harbor Beach, OH. (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 11 p.m. on the first Saturday of July each year.

(18) *Lake County Perchfest Fireworks, Fairport, OH.*

(i) *Location.* All waters of Fairport Harbor and Lake Erie within a 300-yard radius of land position: 41°45.500' N, 081°16.300' W; in Fairport, OH. (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 11 p.m. on the second weekend in September each year.

(19) *Mentor Harbor Yacht Club Fireworks, Mentor Harbor, OH.*

(i) *Location.* All waters of Lake Erie and Mentor Harbor within a 200-yard radius of 41°43.200' N, 081°21.400' W (west of the harbor entrance); in Mentor Harbor, OH. (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 11 p.m. on the first weekend in July each year.

(20) *Browns Football Halftime Fireworks, Cleveland, OH.*

(i) *Location.* All navigable waters of Cleveland Harbor and Lake Erie beginning in approximate land position: 41°30.823' N, 081°41.620' W (the northwest corner of Burke Lakefront Airport); continuing northwest to 41°31.176' N, 081°41.884' W; then southwest to 41°30.810' N, 081°42.515' W; then southeast to 41°30.450' N, 081°42.222' W (the northwest corner of dock 28 at the Cleveland Port Authority) then northeast back to the starting point at 41°30.823' N, 081°41.620' W. (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective on a Sunday during the second or third Cleveland Brown's home game each year.

(21) *City of Cleveland 4th of July Fireworks, Cleveland, OH.*

(i) *Location.* All navigable waters of Cleveland Harbor and Lake Erie within a 400-yard radius of Main Entrance Light 5 (LLNR 4180) at position: 41°30.23' N, 081°42.7' W; in Cleveland, OH (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 11 p.m. on the first weekend in July each year.

(22) *Dollar Bank Jamboree Fireworks Display, Cleveland, OH.*

(i) *Location.* All navigable waters of Cleveland Harbor and Lake Erie beginning at land position: 41°30.823' N, 081°41.620' W (the northwest corner of Burke Lakefront Airport); continuing northwest to 41°31.176' N, 081°41.884' W; then southwest to 41°30.810' N, 081°42.515' W; then southeast to 41°30.450' N, 081°42.222' W (the northwest corner of dock 28 at the Cleveland Port Authority) then northeast back to the starting point at 41°30.823' N, 081°41.620' W. (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 11 p.m. on the first weekend in July each year.

(23) *Lakewood City Fireworks Display, Lakewood, OH.*

(i) *Location.* All waters of Lake Erie within a 200-yard radius of land position: 41°29.755' N, 081°47.780' W (off of Lakewood Park); in Lakewood, OH. (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 11 p.m. on the first weekend in July each year.

(24) *Cleveland Yachting Club Fireworks Display, Rocky River, OH.*

(i) *Location.* All waters of the Rocky River and Lake Erie within a 200-yard radius of land position 41°29.428' N, 081°50.309' W (DATUM: NAD 83) at

Sunset Point on the western side of the mouth of the Rocky River in Cleveland, OH.

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 11 p.m. on the third weekend in July each year.

(25) *Lorain 4th of July Celebration Fireworks Display, Lorain, OH.*

(i) *Location.* All waters of Lorain Harbor within a 300-yard radius of land position 41°28.591' N, 082°10.855' W (DATUM: NAD 83), east of the harbor entrance on the end of the break wall near Spitzer's Marina.

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 11 p.m. on the first weekend in July each year.

(26) *Lorain Port Fest Fireworks Display, Lorain, OH.*

(i) *Location.* All waters of Lorain Harbor within a 250-yard radius of land position: 41°28.040' N, 082°10.365' W; in Lorain, OH (DATUM: NAD 83).

(ii) *Enforcement date.* This section is effective from 9:45 p.m. to 11 p.m. on the third weekend in July each year.

(b) *Definitions.* The following definitions apply to this section:

(1) *Designated Representative* means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port Buffalo to monitor a safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zones, and take other actions authorized by the Captain of the Port.

(2) *Public vessel* means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his designated representative.

(2)(i) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated representative.

(ii) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(iii) Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3)(i) All vessels must obtain permission from the Captain of the Port Buffalo or his designated representative to enter, move within, or exit the safety zone established in this section when this safety zone is enforced.

(ii) Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of

the Captain of the Port or a designated representative.

(iii) While within a safety zone, all vessels must operate at the minimum speed necessary to maintain a safe course.

(d) *Exemption.* Public vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

(e) *Waiver.* For any vessel, the Captain of the Port Buffalo or his designated representative may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of public or environmental safety.

(f) *Notification.* The Captain of the Port Buffalo will notify the public that that the zones in this proposal are or will be enforced by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is cancelled.

§ 165.202 [Removed and Reserved]

3. Remove and reserve § 165.202.

§ 165.914 [Removed and Reserved]

4. Remove and reserve § 165.914.

Dated: March 25, 2008.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E8-6896 Filed 4-2-08; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-R09-OAR-2008-0229; FRL-8550-8]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Nevada, Nevada Division of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to section 112(l) of the 1990 Clean Air Act, EPA granted delegation of specific national emission

standards for hazardous air pollutants (NESHAP) to the Nevada Division of Environmental Protection on December 4, 2007. EPA is proposing to revise the Code of Federal Regulations to reflect the current delegation status of NESHAP in Nevada.

DATES: Any comments on this proposal must arrive by May 5, 2008.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2008-0229, by one of the following methods:

1. *Federal eRulemaking Portal:*

<http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* steckel.andrew@epa.gov.

3. *Mail or deliver:* Andrew Steckel (AIR-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, (415) 947-4124, wang.mae@epa.gov.

SUPPLEMENTARY INFORMATION: This document concerns the delegation of unchanged NESHAP to the Nevada

Division of Environmental Protection. In the Rules and Regulations section of this **Federal Register**, EPA is amending regulations to reflect the current delegation status of NESHAP in Nevada. EPA is taking direct final action without prior proposal because the Agency believes this action 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. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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.

Authority: This action is issued under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: March 19, 2008.

Andrew Steckel,

Acting Director, Air Division, Region IX.

[FR Doc. E8-6920 Filed 4-2-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R03-RCRA-2008-0256; FRL-8549-1]

Virginia: Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Virginia has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Virginia. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this