

data prior to attempting to transit the area. Mariners can view the survey at <http://www.saw.usace.army.mil/nav/OREGON.htm>.

(6) Mariners are reminded that the fendered span of the Herbert C. Bonner Bridge is the only recommended route for passing under the bridge. Passing through any unfendered span presents a significant hazard to the vessel and the bridge.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the regulated navigation area by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 8 a.m. November 7, 2008, through 5 p.m. November 30, 2008.

Dated: November 7, 2008.

J.E. Ryan,

Captain, U.S. Coast Guard, Captain of the Port, North Carolina.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0912]

RIN 1625-AA00

Safety Zone; Fireworks Display, Potomac River, National Harbor, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone upon specified waters of the Potomac River. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a discharge barge located at National Harbor, in Prince Georges County, Maryland. This safety zone is intended to protect the maritime public in a portion of the Potomac River.

DATES: This rule is effective from 6:30 p.m. through 9:30 p.m. on November 28, 2008, and if necessary due to inclement weather, from 6:30 p.m. through 9:30 p.m. on November 29, 2008.

ADDRESSES: Documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-0912 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226-1791, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Mr. Ronald L. Houck, Coast Guard Sector Baltimore, at 410-576-2674 or 410-576-2693. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 16, 2008, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Fireworks Display, Potomac River, National Harbor, MD" in the **Federal Register** (73 FR 53398). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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**. Delaying its effective date would be contrary to the public interest, because immediate action is needed to ensure the safety of the maritime public on the Potomac River against the hazards associated with fireworks displays, such as the accidental discharge of fireworks and falling hot embers or other debris.

Background and Purpose

Fireworks displays are frequently held from locations on or near the navigable waters of the United States. The accidental discharge of fireworks and falling hot embers or other debris are a safety concern during such events. The Coast Guard has the authority to impose appropriate controls on marine events that may pose a threat to persons, vessels and facilities under its jurisdiction. The purpose of this rule is to promote maritime safety, and to protect mariners transiting the area from the potential hazards associated with a fireworks display. The rule is needed to ensure the safety of the maritime public in a portion of the waterway that is expected to be populated by vessel operators and persons seeking to view the fireworks display, as well as mariners operating unknowingly too close to the fireworks discharge site.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held. We will implement a temporary final rule with no changes to the NPRM.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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 it under that Order. This exception is based on the fact that there is little vessel traffic associated with recreational boating and commercial fishing in the area during the enforcement period. Because the safety zone lies entirely outside the federal navigation channel, vessel operators may transit safely around the zone. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this 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 rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate, remain or anchor within certain waters of the Potomac River, at National Harbor, Maryland, from 6:30 p.m. through 9:30 p.m. on November 28, 2008, and if necessary due to inclement weather, from 6:30 p.m. through 9:30 p.m. on November 29, 2008. Because the zone is of limited duration, it is expected that there will be minimal disruption to the maritime community. Before the effective period, the Coast Guard will

issue maritime advisories widely available to users of the river to allow mariners to make alternative plans for transiting the affected area. In addition, smaller vessels not constrained by their draft, which are more likely to be small entities, may transit around the safety zone.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This 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 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 rule will 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 affect 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

We have 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.

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

We have analyzed this 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded under the Instruction that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule establishes a safety zone.

An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under **ADDRESSES**.

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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–0912 to read as follows:

§ 165.T05–0912 Safety Zone; Fireworks Display, Potomac River, National Harbor, MD.

(a) *Definitions.* For the purposes of this section, *Captain of the Port Baltimore, Maryland* means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain

of the Port Baltimore, Maryland to act on his or her behalf.

(b) *Regulated Area.* The following area is a safety zone: All waters of the Potomac River, surface to bottom, within an area bounded by a line drawn from the following points: latitude 38°47'18" N, longitude 077°01'01" W; thence to latitude 38°47'11" N, longitude 077°01'26" W; thence to latitude 38°47'25" N, longitude 077°01'33" W; thence to latitude 38°47'32" N, longitude 077°01'08" W; thence to the point of origin, located at National Harbor, Maryland. All coordinates reference North American Datum 1983.

(c) *Regulations.* (1) The general regulations governing safety zones, found in 33 CFR 165.23, apply to the safety zone described in paragraph (b) of this section.

(2) Entry into or remaining in this zone is prohibited, unless authorized by the Captain of the Port Baltimore, Maryland.

(3) Persons or vessels requiring entry into or passage through the safety zone must first request authorization from the Captain of the Port Baltimore, Maryland to seek permission to transit the area. The Captain of the Port Baltimore, Maryland can be contacted at telephone number 410-576-2693. The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF Channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the person or vessel shall proceed as directed. If permission is granted, all persons or vessels must comply with the instructions of the Captain of the Port, Baltimore, Maryland.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State and local agencies.

(e) *Enforcement period.* This rule is effective from 6:30 p.m. through 9:30 p.m. on November 28, 2008, and if necessary due to inclement weather, from 6:30 p.m. through 9:30 p.m. on November 29, 2008.

Dated: October 30, 2008.

Austin J. Gould,

Commander, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland, Acting.

[FR Doc. E8-27841 Filed 11-21-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RI-19-1222c; FRL-8733-6]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is updating the materials submitted by Rhode Island that are incorporated by reference (IBR) into the State implementation plan (SIP). In this action, EPA is also notifying the public of the correction of certain typographical errors within the IBR Tables. The regulations affected by this update have been previously submitted by the Rhode Island Department of Environmental Management (DEM) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the Regional Office.

DATES: *Effective Date:* This action is effective November 24, 2008.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, New England Regional Office (Region 1), One Congress Street, Suite 1100, Boston, MA 02114-2023; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Room Number 3334, EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566-1742; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Cooke, Environmental Scientist, at the above EPA New England Region address or at (617) 918-1668 or by e-mail at cooke.donald@epa.gov.

SUPPLEMENTARY INFORMATION: The SIP is a living document which the State can revise as necessary to address its unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997, (62 FR 27968), EPA revised the procedures for incorporation by reference for Federally-approved SIPs, as a result of consultations between EPA and the Office of Federal Register (OFR). The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997 **Federal Register** document. On August 9, 1999 (64 FR 43083), EPA published a **Federal Register** beginning the new IBR procedure for Rhode Island. On June 11, 2003 (68 FR 34813) and July 14, 2006 (71 FR 40014), EPA published updates to the IBR Material for Rhode Island.

In this document, EPA is doing the following:

■ 1. Announcing the update to the Rhode Island IBR material as of October 15, 2008.

2. Making a correction in the paragraph 52.2070(c) chart, fifteenth entry "Air Pollution Control Regulation 15."—Typographic error corrected in the explanations column by changing the word "except" to read "exception".

3. Making a correction in the paragraph 52.2070(d) chart, third entry "Keene Corporation, East Providence, RI."—Typographic error corrected in the explanations column by changing "sixpaper" to read "six paper".

3. Making corrections to the date format listed in paragraphs 52.2070(c), (d) and (e) charts.—Revise the date format in the "state effective date," column as well as the "EPA approval date," column for consistency. Dates are numerical month/day/year without additional zeros.

4. Making corrections to the abbreviation for nitrogen oxides in paragraphs 52.2070(c), (d) and (e) charts.—Revise the format of the abbreviation for nitrogen oxides (NO_x) for consistency.

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies