

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 Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide 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 action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves establishing a safety zone and is categorically excluded under figure 2-1, paragraph (34)(g), of the Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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 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, 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 new temporary zone § 165.T11-222 to read as follows:

§ 165.T11-222 Safety zone; San Diego Parade of Lights Fireworks; San Diego, California.

(a) *Location.* The limits of the safety zone will include a 400 foot radius around the barge in approximate position 32°43'23" N, 117°11'57" W.

(b) *Enforcement Period.* This section will be enforced from 5:30 p.m. to 10 p.m. on December 13, 2009 and December 20, 2009. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *designated representative*, means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Sector San Diego Command Center. The Command Center may be contacted on VHF-FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

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

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: July 28, 2009.

T.H. Farris,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2009-0547; FRL-8963-8]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Determination of Clean Data for the 1997 Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: EPA is reopening the comment period for a notice of proposed rulemaking (NPR) published on July 31, 2009 (74 FR 38154) and corrected on August 27, 2009 (74 FR 43653). In the NPR, EPA proposed to determine that Berkeley County, part of the Hagerstown-Martinsburg MD-WV nonattainment area; Wood County and the Grant Tax District in Pleasants County, part of the Parkersburg-Marietta WV-OH nonattainment area; and Marshall County and Ohio County, part of the Wheeling WV-OH nonattainment area for the 1997 National Ambient Air Quality Standard (NAAQS) for fine particulate (PM_{2.5}) have clean data for the 1997 PM_{2.5} NAAQS. EPA received comments from EarthJustice pertaining to the design value calculations for the Hagerston-Martinsburg nonattainment area. EarthJustice also requested that the 2009 monitored data referred to in the proposed rule be made available as part of the record and that the proposed rule either be revised or the comment period reopened to allow the public to consider the data. EPA is therefore reopening the comment period and including the data that was relied upon for the clean data determination as well as the 2009 monitored data. The data relied upon by EPA is now provided in a Technical Support Document which is included in the record for this rulemaking. EPA is reopening the comment period through October 29, 2009. All comments received on or before October 29, 2009 will be entered into the public record and considered by EPA before taking final action on the proposed rule.

DATES: Written comments must be received on or before October 29, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2009-0547 by one of the following methods:

http://www.regulations.gov. Follow the on-line instructions for submitting comments.

B. E-mail:
fernandez.cristina@epa.gov.

C. *Mail*: EPA-R03-OAR-2009-0547, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery*: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2009-0547. EPA's policy is that all comments received 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 information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air

Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, (215) 814-2308, or by e-mail at powers.marilyn@epa.gov.

Dated: September 18, 2009.

William C. Early,
Acting Regional Administrator, Region III.
[FR Doc. E9-23500 Filed 9-28-09; 8:45 am]
BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2009-0199; FRL-8963-7]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Determination of Clean Data for the 1997 Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: EPA is reopening the comment period for a notice of proposed rulemaking (NPR) published on July 31, 2009 (74 FR 38161). In the NPR, EPA proposed to determine that the Baltimore, Maryland portion of the Hagerstown-Martinsburg nonattainment areas for the 1997 National Ambient Air Quality Standard (NAAQS) fine particulate (PM_{2.5}) have clean data for the 1997 PM_{2.5} NAAQS. EPA received comments from EarthJustice requesting that the 2009 monitored data referred to in the proposed rule be made available as part of the record and that the proposed rule either be revised or the comment period reopened to allow the public to consider the data. EPA is, therefore, reopening the comment period and including the data that was relied upon for the proposed clean data determination as well as the 2009 monitored data. The data relied upon by EPA is now provided in a Technical Support Document which is included in the record for this rulemaking. EPA is reopening the comment period through October 29, 2009. All comments received on or before October 29, 2009 will be entered into the public record and considered by EPA before taking final action on the proposed rule.

DATES: Written comments must be received on or before October 29, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-

R03-OAR-2009-0199 by one of the following methods:

A. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail*:
fernandez.cristina@epa.gov.

C. *Mail*: EPA-R03-OAR-2009-0199, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery*: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2009-0199. EPA's policy is that all comments received 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 information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on