

### Taking of Private Property

This rule will not cause 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 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 concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule establishes temporary safety zones to protect the public from dangers associated with fireworks displays.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

### ADDRESSES.

### List of Subjects in 33 CFR Part 165

Harbor, 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. Chapters 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 § 165.T13-140 to read as follows:

#### § 165.T13-140 Safety Zones; May Fireworks displays within the Captain of the Port Puget Sound Area of Responsibility (AOR)

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

- (1) Viking Fest, Liberty Bay, WA
  - (i) *Location.* Liberty Bay, WA extending out to a 1000 foot radius from the launch site at 47°43'55" N 122°39'08" W.

(ii) *Enforcement.* 6:30 p.m. until 11:30 p.m. on May 14, 2010.

(2) Private Party, North of Meadowpoint in Central Puget Sound, WA

(i) *Location.* Two miles north of Meadowpoint in Central Puget Sound, WA extending out to 1500 foot radius from the launch site at 47°43'42" N 122°24'26" W.

(i) *Enforcement.* 8:30 p.m. until 11 p.m. on May 22, 2010.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel operator may enter, transit, moor, or anchor within these safety zones, except for vessels authorized by the Captain of the Port or Designated Representative.

(c) *Authorization.* All vessel operators who desire to enter these safety zones must obtain permission from the Captain of the Port or Designated Representative by contacting either the on-scene patrol craft on VHF Ch 13 or Ch 16 or the Coast Guard Sector Seattle Joint Harbor Operations Center (JHOC) via telephone at 206-217-6002.

(d) *Effective Period.* This rule is effective from 12:01 a.m. May 14, 2010 through 11:59 p.m. May 23, 2010 unless canceled sooner by the Captain of the Port.

Dated: April 15, 2010.

**S.W. Bornemann,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 2010-11300 Filed 5-11-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket No. USCG-2010-0129]

RIN 1625-AA00

### Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending the regulations establishing permanent safety zones in the Captain of the Port Lake Michigan zone during annual events. When these safety zones are activated, and thus subject to enforcement, this rule would restrict vessels from portions of water areas during annual events that pose a hazard to public safety. The safety zones established by this rule are necessary to

protect spectators, participants, and vessels from the hazards associated with fireworks displays, boat races, and other events.

**DATES:** This rule is effective June 11, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket USCG–2010–0129 and are available online at <http://www.regulations.gov>. This material is 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 U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call BM1 Adam Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7154 or e-mail him at [Adam.D.Kraft@uscg.mil](mailto:Adam.D.Kraft@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On March 23, 2010, we published a notice of proposed rule making (NPRM) entitled Safety Zones; Annual Events requiring safety zones in the Captain of the Port Lake Michigan zone, in the **Federal Register** (75 FR 13707). We received 0 letters commenting on the proposed rule. No public meeting was requested, and none was held.

**Basis and Purpose**

This rule amends the regulations found in 33 CFR 165.929, Annual Events requiring safety zones in the Captain of the Port, Sector Lake Michigan's zone. This rule revises the location of three safety zones to reflect the correct enforcement areas, and add two new reoccurring events that require safety zones. These safety zones are necessary to protect vessels and people from the hazards associated with firework displays, boat races, and 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 Comments and Changes**

No comments were received regarding this rule.

**Regulatory Analysis**

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 this rule under that Order.

The Coast Guard's enforcement of these safety zones will be periodic in nature, of short duration, and designed to minimize the impact on navigable waters. These safety zones will only be enforced immediately before and during the time the events are occurring. 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 changes and addition of these safety zones.

**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 would 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 of operators of vessels intending to transit or anchor in the areas designated as safety zones during the dates and times the safety zones are being enforced.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons. The rule will be

in effect for short periods of time and is designed to allow traffic to pass safely around the zone whenever possible; and allows vessels to pass through the zone with the permission of the Captain of the Port, Sector Lake Michigan.

**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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will 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 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 Commandant Instruction M16475.ID and Department of Homeland Security Directive 023-01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under figure 2-1, paragraph 34 (g) of the Instruction. This rule amends permanent safety zones established in the Captain of the Port Lake Michigan Zone to protect the public from the hazards associated during annual events.

A final environmental analysis check list and a final categorical exclusion determination are 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. Amend § 165.929 to revise (a)(15)(i), (a)(52)(i), and (a)(65)(i); and to add paragraphs (a)(82) and (a)(83) to read as follows:

**§ 165.929 Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone.**

(a) \* \* \*

(15) *Taste of Chicago Fireworks; Chicago IL.*

(i) *Location.* All waters of Monroe Harbor and all waters of Lake Michigan

bounded by a line drawn from 41°53'24" N, 087°35'59" W; then east to 41°53'15" N, 087°35'26" W; then south to 41°52'49" N, 087°35'26" W; then southwest to 41°52'27" N, 087°36'37" W; then north to 41°53'15" N, 087°36'33" W; then east returning to the point of origin. (NAD 83)

\* \* \* \* \*

(52) *Gary Air and Water Show; Gary, IN.*

(i) *Location.* All waters of Lake Michigan bounded by a line drawn from 41°37'42" N, 087°16'38" W; then east to 41°37'54" N, 087°14'00" W; then south to 41°37'30" N, 087°13'56" W; then west to 41°37'17" N, 087°16'36" W; then north returning to the point of origin. (NAD 83)

\* \* \* \* \*

(65) *Venetian Night Fireworks; Chicago, IL.*

(i) *Location.* All waters of Monroe Harbor and all waters of Lake Michigan bounded by a line drawn from 41°53'03" N, 087°36'36" W; then east to 41°53'03" N, 087°36'21" W; then south to 41°52'27" N, 087°36'21" W; then west to 41°52'27" N, 087°36'37" W; then north returning to the point of origin. (NAD 83)

\* \* \* \* \*

(82) *Cochrane Cup; Blue Island, IL.*

(i) *Location.* All waters of the Calumet Sag Channel from the South Halstead Street Bridge at 41°39'27" N, 087°38'29" W; to the Crawford Avenue Bridge at 41°39'05" N, 087°43'08" W; and the Little Calumet River from the Ashland Avenue Bridge at 41°39'7" N, 087°39'38" W; to the junction of the Calumet Sag Channel at 41°39'23" N, 087°39' W (NAD 83).

(ii) *Enforcement date and time.* The first Saturday of May; 6:30 a.m. to 5 p.m.

(83) *World War II Beach Invasion Re-enactment; St. Joseph, MI.*

(i) *Location.* All waters of Lake Michigan in the vicinity of Tiscornia Park in St. Joseph, MI beginning at 42°06.55 N, 086°29.23 W; then west/northwest along the north breakwater to 42°06.59 N, 086°29.41 W; the northwest 100 yards to 42°07.01 N, 086°29.44 W; then northeast 2,243 yards to 42°07.50 N, 086°28.43 W; the southeast to the shoreline at 42°07.39 N, 086°28.27 W; then southwest along the shoreline to the point of origin (NAD 83).

(ii) *Enforcement date and time.* The third Saturday of June; 8 a.m. to 2 p.m.

\* \* \* \* \*

Dated: April 28, 2010.

**L. Barndt,**

*Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.*

[FR Doc. 2010-11265 Filed 5-11-10; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2009-0344; FRL-9112-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Reformulated Gasoline and Diesel Fuels; California

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

**ACTION:** Final rule.

**SUMMARY:** This final rule approves state implementation plan (SIP) revisions submitted by the State of California on June 15, 2004 and February 3, 2009, relating to reformulated gasoline (RFG) and diesel fuel sold or supplied as motor vehicle fuels in California. The revisions relating to RFG include California Phase 3 RFG (CaRFG3) regulations, correction of errors and streamlined requirements for compliance with and enforcement of the CaRFG3 standards, and an update to the State's predictive model to mitigate permeation emissions associated with the use of ethanol as a fuel additive. The revisions relating to diesel fuel include test methods for determining the aromatic hydrocarbon content in diesel fuel and reductions in the maximum allowable sulfur content for motor vehicle diesel fuel. The effect of today's action is to make these revisions federally enforceable as part of the California SIP.

**DATES:** This final rule is effective June 11, 2010.

**ADDRESSES:** EPA has established a docket for this action under EPA-R09-OAR-2009-0344. 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.

Although listed in the index, some information is not publicly available, i.e., CBI or other information the disclosure of which 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.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Buss, EPA Region IX, (415) 947-4152, [buss.jeffrey@epa.gov](mailto:buss.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we" "us" and "our" refer to EPA.

#### I. Summary of Proposed Actions

On July 10, 2009 (74 FR 33196), EPA proposed to approve revisions to the California regulations for reformulated gasoline (RFG) sold or supplied in California, as submitted on June 15, 2004 and February 3, 2009, and revisions to the regulations for diesel fuel sold or supplied in California, as submitted on February 3, 2009, as revisions to the California SIP. On July 21, 2009 (74 FR 35838), EPA issued a correction to the proposed approval and on August 11, 2009 (74 FR 40123), EPA extended the comment period on the proposed approval to August 31, 2009. For a detailed discussion of the rule revisions that California submitted, please refer to EPA's proposed rule and Technical Support Document which can be found in the docket for this rulemaking.

#### II. EPA's Response to Comments

We received one comment letter on August 31, 2009 from the Center on Race, Poverty & the Environment (CRPE or "the commenter") on behalf of the Association of Irrigated Residents, Comité West Goshen, Comité Unido de Plainview, Comité Residentes Organizados al Servicio del Ambiente, Committee for a Better Arvin, La Nueva Esperanza deAlpaugh, El Quinto Sol de America, South Shafter Project Committee, Shafter Chapter League of United Latin American Citizens, United for a Change in Tooleville, and La Voz de Tonyville.

We have summarized the comments and provided responses below.

*Comment 1:* CRPE stated that EPA must determine that CaRFG3 is enforceable before approving the SIP revision. Specifically, the commenter asserted that EPA is inappropriately relying on a federal RFG enforcement exemption granted in 2005 to support its conclusion that the CaRFG3 amendments to the SIP satisfy the requirements of CAA section 110(a).

The commenter summarized portions of the rationale EPA provided in our

proposed approval (74 FR 33198), and stated that "EPA must evaluate the final rule to determine whether the rule is enforceable under § 110(a), not whether the rule is equivalent in practice to federal requirements." The commenter asserted that EPA has neither "made the requisite finding that the provisions are enforceable," nor "made the case that equivalence in practice to federal requirements constitutes enforceability for the purposes of § 110(a)."

*Response 1:* Section 110(a)(2)(A) of the CAA requires that each SIP include "enforceable emission limitations and other control measures, means, or techniques \* \* \* as may be necessary or appropriate to meet the applicable requirements of this chapter." See also CAA section 172(c)(6) (requiring enforceable measures in nonattainment area plans). EPA has stated in interpretive guidance that to be enforceable in practice, a measure must "specify clear, unambiguous, and measurable requirements" and must include a legal means to ensure that sources are in compliance.<sup>1</sup> For example, an enforceable SIP regulation must clearly spell out the requirements, the regulated sources or activities, the recordkeeping and monitoring requirements, and test procedures to determine whether sources are in compliance.<sup>2</sup> We continue to believe that the revisions to the California RFG regulations that we are approving today satisfy these enforceability requirements of CAA section 110(a).

First, as the commenter notes, in 2005 EPA exempted refiners, blenders and importers of CaRFG3 sold for use within California from certain enforcement provisions in the Federal RFG regulations found at 40 CFR 80.81 (CaRFG3 enforcement exemption).<sup>3</sup> EPA granted this enforcement exemption following a determination that the CaRFG3 regulations and associated enforcement mechanisms were sufficient to ensure that producers of California gasoline would in fact meet the CaRFG3 standards, which in turn, would ensure compliance with the Federal Phase II RFG standards.<sup>4</sup> EPA's

<sup>1</sup> "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 at 13568 (April 16, 1992) (General Preamble).

<sup>2</sup> *Id.* at 13502.

<sup>3</sup> 70 FR 75914 (December 21, 2005).

<sup>4</sup> EPA made three determinations to support the enforcement exemption: (1) That emission reductions from CaRFG3 would be equal to or greater than the emission reductions from Federal Phase II RFG standards; (2) that the content standard for benzene in CaRFG3 would be equivalent in practice to the Federal Phase II RFG standard and that the oxygen content standard of