

(2) Authorize the administrative law judge to specify additional issues; or
 (3) Authorize the parties to agree to additional issues that are material, with the approval of the administrative law judge.

(e) The hearing will be conducted under §§ 4.1100, 4.1102 through 4.1115, 4.1121 through 4.1127, and 4.1130 through 4.1141. Unless the Board orders otherwise, the administrative law judge may consider other relevant issues and evidence identified after referral of the case for a hearing.

■ 35. Add § 4.1287 to read as follows:

§ 4.1287 Action by administrative law judge.

(a) Upon completion of the hearing and the incorporation of the transcript in the record, the administrative law judge will issue and serve on the parties, as specified by the Board under § 4.415(c)(2):

(1) Proposed findings of fact on the issues presented at the hearing;

(2) A recommended decision that includes findings of fact and conclusions of law and that advises the parties of their right to file exceptions under paragraph (c) of this section; or

(3) A decision that will be final for the Department unless a notice of appeal is filed in accordance with § 4.411.

(b) The administrative law judge will promptly send to the Board the record and:

(1) The proposed findings;
 (2) The recommended decision; or
 (3) The final decision if a timely notice of appeal is filed.

(c) The parties will have 30 days from service of the recommended decision to file exceptions with the Board.

■ 36. In § 4.1392, revise paragraphs (a) and (d) and add paragraph (e) to read as follows:

§ 4.1392 Contents of request; amendment of requests; responses.

(a) The request for review:

(1) Must include:

(i) A clear statement of the reasons for appeal;

(ii) A request for specific relief;

(iii) A copy of the decision appealed from; and

(iv) Any other relevant information; and

(2) May not exceed 30 pages, excluding exhibits, declarations, and other attachments, unless the Board orders otherwise upon motion for good cause shown.

* * * * *

(d) An interested party may file an answer, motion, or statement as described in paragraph (b) of this

section in response to an amended request for review as follows:

(1) If the request for review is amended as a matter of right, the answer, motion, or statement must be filed within the longer of the following periods:

(i) The time remaining for response to the original request for review; or

(ii) Ten days after receipt of the amended request for review; and

(2) If the Board grants a motion to amend a request for review, the answer, motion, or statement must be filed within the time set by the Board in its order granting the motion.

(e) The filing of a reply is discouraged. However, a person who filed a request for review may file a reply that:

(1) Is limited to the issues raised in an answer or motion;

(2) Does not exceed 20 pages, excluding exhibits, declarations, and other attachments, unless the Board orders otherwise upon motion for good cause shown; and

(3) Is filed within:

(i) Fifteen days after service of the answer or motion under paragraph (b) or (d)(1) of this section; or

(ii) The time set by the Board in its order under paragraph (d)(2) of this section.

PART 10—NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION REGULATIONS

■ 37. The authority citation for part 10 is revised to read as follows:

Authority: 16 U.S.C. 470dd; 25 U.S.C. 9, 3001 *et seq.*

Subpart C—Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony in Museums and Federal Collections

§ 10.12 [Amended]

■ 38. In § 10.12:

■ a. In paragraph (j) introductory text, remove the address “4015 Wilson Boulevard, Arlington, VA 22203–1923” and add in its place the address “801 North Quincy Street, Arlington, VA 22203”; and

■ b. In paragraphs (k)(1) and (3), remove the address “4015 Wilson Boulevard, Arlington, VA 22203–1954” and add in its place the address “801 North Quincy Street, Arlington, VA 22203”.

Dated: October 4, 2010.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2010–26200 Filed 10–19–10; 8:45 am]

BILLING CODE 4310–79–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0927]

RIN 1625-AA00

Safety Zones; Temporary Change of Date for Recurring Fireworks Display Within the Fifth Coast Guard District, Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement period of safety zone regulations for a recurring fireworks display within the Fifth Coast Guard District. These regulations apply to only one recurring fireworks display event that takes place at Wrightsville Beach, NC. Safety zone regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of Motts Channel and Banks Channel near Wrightsville Beach, NC, during the event.

DATES: In § 165.506, Table to § 165.506, entry (d)14 is effective from 5:30 p.m. to 8:30 p.m. on November 27, 2010. In § 165.506, Table to § 165.506, entry (d)10 is suspended effective from November 20, 2010 through November 27, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0927 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0927 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Chief Warrant Officer Joseph Edge, Prevention Department, Coast Guard Sector North Carolina, Atlantic Beach, NC; telephone 252–247–4525, e-mail Joseph.M.Edge@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM is impracticable and contrary to public interest since immediate action is needed to minimize potential danger to the public during the event. The Coast Guard did not receive notification of the change in the date of the event in sufficient time to issue an NPRM and hold a comment period for this rulemaking. The potential dangers posed by fallout from pyrotechnic fireworks displays to vessel traffic transiting the waterway makes this safety zone necessary to provide for the safety of spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions. On scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners.

Under 5 U.S.C. 553(d)(3), and for the same reasons, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area.

Background and Purpose

Fireworks display events are frequently held on or adjacent to navigable waters within the boundary of the Fifth Coast Guard District. For a description of the geographical area of each Coast Guard Sector—Captain of the Port Zone, please see 33 CFR 3.25.

This regulation temporarily changes the enforcement period of the safety zone for one recurring marine event, described at (d)(10) of the Table to 33 CFR 165.506, that is normally scheduled to occur each year on the fourth Monday in November.

On November 27, 2010, the North Carolina Holiday Flotilla at Wrightsville Beach, NC will sponsor the “2010 NC Holiday Flotilla boat parade and fireworks”. The event will take place near Wrightsville Beach, NC on the waters of Motts Channel and Banks Channel. The regulation at 33 CFR 165.506 is enforced annually for this event. The event will consist of approximately 40 sailboats and powerboats participating in a parade in the vicinity of Wrightsville Beach, North Carolina and conclude with a fireworks display. Also, a fleet of spectator vessels is expected to gather near the event site to view the parade and fireworks. To provide for the safety of participants, spectators, and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area from 5:30 p.m. to 8:30 p.m. on November 27, 2010. The regulation at 33 CFR 165.506 will be enforced for the duration of the event. Vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

Discussion of Rule

The Coast Guard is temporarily suspending the regulations at 33 CFR 165.506 by changing the date of enforcement in the table to § 165.506. The Coast Guard is temporarily changing the enforcement period of the safety zone for this recurring event within the Fifth Coast Guard District. This regulation applies to only one marine event listed at (d)10 in the Table to § 165.506.

The Table to § 165.506, event (d)10 establishes the enforcement date for the “North Carolina Holiday Flotilla”. This regulation temporarily changes the enforcement date from the fourth Monday in November to Saturday, November 27, 2010. The temporary safety zone will be enforced from 5:30 p.m. to 8:30 p.m. on November 27, 2010, and will restrict general navigation in the regulated area during the event. The North Carolina Holiday Flotilla, which is the sponsor for this event, holds this event annually; however, they have changed the date of the event for 2010 so that it is outside the scope of the existing enforcement period. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel will be allowed to enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

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. Although this rule prevents traffic from transiting a portion of Motts Channel and Banks Channel during the specified event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, this rulemaking does not change the permanent regulated areas that have been published in 33 CFR 165.506, Table to § 165.506. In some cases vessel traffic may be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so.

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 transit or anchor in Motts Channel or Banks Channel where this event is being held. This regulation will not have a significant impact on a substantial number of small entities because it will be enforced only during the event that will be patrolled by the Coast Guard patrol commander. The Captain of the Port will ensure that

small entities are able to operate in the areas where events are occurring when it is safe to do so. In some cases, vessels will be able to safely transit around the regulated area at various times, and, with the permission of the Patrol Commander, vessels may transit through the regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can 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 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 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 which 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 a safety zone. 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

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

§ 165.506 [Amended]

- 2. From November 20, 2010 through November 27, 2010 in § 165.506, Table to § 165.506, suspend entry (d)10.

- 3. From 5:30 p.m. to 8:30 p.m. on November 27, 2010, in § 165.506, Table to § 165.506, add entry (d)14 to read as follows:

Number	Date	Event	Sponsor	Location
(d) Coast Guard Sector North Carolina—COTP Zone				
14	* November 27, 2010	* 2010 North Carolina Holiday Flotilla boat parade and fireworks.	* NC Holiday Flotilla at Wrightsville Beach, NC.	* All waters of Motts Channel within a 300 yard radius of the fireworks barge in approximate position latitude 34°12'29" N, longitude 077°48'27" W, approximately 560 yards south of Sea Path Marina, Wrightsville Beach, NC.

Dated: September 28, 2010.

Anthony Popiel,

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

[FR Doc. 2010-26378 Filed 10-19-10; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2010-0824]

Safety Zone, Brandon Road Lock and, Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone, Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Ship and Sanitary Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 296.1 to Mile Marker 296.7 from 6 a.m. on October 4, 2010 through 6 p.m. on October 11, 2010 and from 6 a.m. on November 3, 2010 through 6 p.m. on November 5, 2010. This action is necessary to protect the waterways, waterway users and vessels from hazards associated with the U.S. Army Corps of Engineers' installation of parasitic structures which will help control the spread of aquatic nuisance species that might devastate the waters in the Chicago Sanitary and Ship Canal.

During the enforcement period, entry into, transiting, mooring, laying-up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake

Michigan, or his or her designated representative.

DATES: The regulations in 33 CFR 165.T09-0166 will be enforced daily from 6 a.m. to 6 p.m. on October 4, 2010 to October 11, 2010 and daily from 6 a.m. to 6 p.m. on November 3, 2010 to November 5, 2010. This rule is effective with actual notice for purposes of enforcement at 6 a.m. on October 4, 2010.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail CDR Tim Cummins, Deputy Prevention Division, Ninth Coast Guard District, telephone 216-902-6045, e-mail address *Timothy.M.Cummins@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce Safety Zone, Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL listed in 33 CFR 165.T09-0166(a)(2), on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 296.1 to Mile Marker 296.7 daily from 6 a.m. to 6 p.m. on October 4, 2010 to October 11, 2010 and daily from 6 a.m. to 6 p.m. on November 3, 2010 to November 5, 2010.

This enforcement action is necessary because the Captain of the Port, Sector Lake Michigan has determined that the U.S. Army Corps of Engineers' installation operation poses risks to life and property. Specifically, there will be congested waterways and construction operations requiring the use of divers taking place in the vicinity of the U.S. Army Corps of Engineers' electric dispersal barrier. The combination of vessel traffic, divers, and electric current in the water makes the control of vessels through the impacted portion of the Chicago Sanitary and Ship Canal necessary to prevent injury and property loss.

In accordance with the general regulations in § 165.23 of this part, entry into, transiting, mooring, laying up, or

anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

This notice is issued under authority of 33 CFR 165.T09-0166 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Captain of the Port, Sector Lake Michigan, will also provide notice through other means, which may include but are not limited to Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice. Additionally, the Captain of the Port, Sector Lake Michigan, may notify representatives from the maritime industry through telephonic and e-mail notifications.

Dated: September 24, 2010.

L. Barndt,

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

[FR Doc. 2010-26379 Filed 10-19-10; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2010-0124; FRL-9211-5]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Limiting Emissions of Volatile Organic Compounds From Consumer Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. The revision amends existing Section 2.0—Consumer Products to Delaware's Regulation 1141 (formerly SIP Regulation No. 41)—Limiting Emissions of Volatile Organic Compounds from