

the total amount of assets of the VEBA at the close of the taxable year over the applicable account limit (\$3,800).

(d)(1) Q-4. What is the effective date of the amendments to section 512(a)(3) and what transition rules apply to “existing reserves for post-retirement medical or life insurance benefits”?

(2) A-4. (i) The amendments to section 512(a)(3), made by the Tax Reform Act of 1984, apply to income earned by a Covered Entity after December 31, 1985, in the taxable years of such an organization ending after such date.

(ii) Section 512(a)(3)(E)(ii)(I) provides that income that is attributable to “existing reserves for post-retirement medical or life insurance benefits” will not be treated as unrelated business taxable income. This includes income that is either directly or indirectly attributable to existing reserves. An “existing reserve for post-retirement medical or life insurance benefits” (as defined in section 512(a)(3)(E)(ii)(II)) is the total amount of assets actually set aside by a Covered Entity on July 18, 1984 (calculated in the manner set forth in paragraph (c) of this section, and adjusted under paragraph (c) of Q&A-11 of § 1.419-1T), reduced by employer contributions to the fund on or before such date to the extent such contributions are not deductible for the taxable year of the employer including July 18, 1984, and for any prior taxable year of the employer, for purposes of providing such post-retirement benefits. For purposes of the preceding sentence only, an amount that was not actually set aside on July 18, 1984, will be treated as having been actually set aside on such date if the amount was—

(A) Incurred by the employer (without regard to section 461(h)) as of the close of the last taxable year of the Covered Entity ending before July 18, 1984; and

(B) Actually contributed to the Covered Entity within 8 ½ months following the close of such taxable year.

(iii) In addition, section 512(a)(3)(E)(ii)(I) applies to existing reserves for such post-retirement benefits only to the extent that such “existing reserves” do not exceed the amount that could be accumulated under the principles set forth in Revenue Rulings 69-382, 1969-2 CB 28; 69-478, 1969-2 CB 29; and 73-599, 1973-2 CB 40. Thus, amounts attributable to any such excess “existing reserves” are not within the transition rule of section 512(a)(3)(E)(ii)(I) even though they were actually set aside on July 18, 1984. See § 601.601(d)(2)(ii)(b) of this chapter.

(iv) All post-retirement medical or life insurance benefits (or other benefits to

the extent paid with amounts set aside to provide post-retirement medical or life insurance benefits) provided after July 18, 1984 (whether or not the employer has maintained a reserve or fund for such benefits) are to be charged, first, against the “existing reserves” within the transition rule of section 512(a)(3)(E)(ii)(I) (including amounts attributable to “existing reserves” within the transition rule of section 512(a)(3)(E)(ii)(I) for post-retirement medical benefits or for post-retirement life insurance benefits (as the case may be)) and, second, against all other amounts. For purposes of this paragraph (d)(2)(iv), the qualified direct cost of an asset with a useful life extending substantially beyond the end of the taxable year (as determined under Q&A-6 of § 1.419-1T) will be treated as a benefit provided and thus charged against the “existing reserve” based on the extent to which such asset is used in the provision of post-retirement medical benefits or post-retirement life insurance benefits (as the case may be). All plans of an employer providing post-retirement medical benefits are to be treated as one plan for purposes of section 512(a)(3)(E)(ii)(III), and all plans of an employer providing post-retirement life insurance benefits are to be treated as one plan for purposes of section 512(a)(3)(E)(ii)(III).

(v) In calculating the unrelated business taxable income of a Covered Entity for a taxable year of such organization, the total income of the Covered Entity for the taxable year is reduced by the income attributable to “existing reserves” within the transition rule of section 512(a)(3)(E)(ii)(I) before such income is compared to the excess of the total amount of the assets of the Covered Entity as of the close of the taxable year over the applicable account limit for the taxable year.

(vi) The following example illustrates the calculation of UBTI for a VEBA that has existing reserves.

(A) *Example.* Assume that the total income of a VEBA for a taxable year is \$1,000, and that the excess of the total amount of the assets of the VEBA as of the close of the taxable year over the applicable account limit is \$600. Assume also that of the \$1,000 of total income, \$540 is attributable to “existing reserves” within the transition rule of section 512(a)(3)(E)(ii)(I). The unrelated business taxable income of this VEBA for the taxable year is \$460, determined as the lesser of the following two amounts:

(1) The total income of the VEBA for the taxable year, reduced by the extent to which such income is attributable to “existing reserves” within the meaning of the transition rule of section 512(a)(3)(E)(ii)(I) (\$1,000 - \$540 = \$460); and

(2) The excess of the total amount of the assets of the VEBA as of the close of the taxable year over the applicable account limit (\$600).

(B) [Reserved]

(e)(1) Q-5. What is the applicability date of this section?

(2) A-5. Except as otherwise provided in this paragraph (e)(2), this section is applicable to taxable years beginning on or after December 10, 2019. For rules that apply to earlier periods, see § 1.512(a)-5T, as contained in 26 CFR part 1, revised April 1, 2019.

#### § 1.512(a)-5T [Removed]

■ **Par. 3.** Section 1.512(a)-5T is removed.

**Sunita Lough,**

*Deputy Commissioner for Services and Enforcement.*

Approved: November 19, 2019.

**David J. Kautter,**

*Assistant Secretary of the Treasury (Tax Policy).*

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**BILLING CODE 4830-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Parts 100 and 165

[Docket Number USCG-2019-0908]

RIN 1625-AA08

#### Special Local Regulation; Temporary Change for Recurring Marine Event in the Seventh Coast Guard District

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the enforcement period of a special local regulation for a recurring marine event in the Seventh Coast Guard District and adding a temporary safety zone for this event. These regulations apply to the St. Croix Christmas Boat Parade and Fireworks Display in the vicinity of Protestant Cay in St. Croix, USVI, which will take place this year on December 14, 2019. The temporary special local regulation and temporary safety zone is needed to protect personnel, vessels, and the marine environment from the boat parade and fireworks display. Entry of vessels or persons into this regulated area is prohibited unless specifically authorized by the Captain of the Port San Juan.

**DATES:** This rule is effective on December 14, 2019, from 4 p.m. until 11 p.m.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0908 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Commander Pedro Mendoza, Sector San Juan Prevention Department, Waterways Management Division, U.S. Coast Guard; telephone 787-729-2374, email [Pedro.L.Mendoza@uscg.mil](mailto:Pedro.L.Mendoza@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
 COTP Captain of the Port  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section  
 U.S.C. United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary 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 the Coast Guard did not receive notice of the marine event from involved parties with sufficient time to publish a NPRM and to receive public comments prior to the event. It is impracticable to publish an NPRM because the Coast Guard did not receive notice of the alternate date of the boat parade and the addition of a fireworks display until October 31, 2019, and the special local regulation is needed for December 14, 2019. This action is necessary for the protection of life and property on the navigable waters of the United States. Therefore, it would be contrary to the public interest to postpone temporarily amending this special local regulation.

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 the effective date of this rule would be impracticable because immediate action is needed to

respond to the potential safety and security concerns associated with power boat races.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 and 70041. The Captain of the Port San Juan (COTP) has determined that potential hazards associated with the boat parade and fireworks display on December 14, 2019, will be a safety concern for anyone within the vicinity of the event. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters of Christiansted Harbor in the vicinity of Protestant Cay in St. Croix, USVI.

**IV. Discussion of the Rule**

This rule temporarily changes the date of the Christmas Boat Parade in St. Croix, USVI and adds a fireworks display to the event description. The special local regulation is from 4:00 p.m. until 11:00 p.m. on December 14, 2019. The temporary special local regulation will cover all navigable waters of Christiansted Harbor approximately 200 yards from Protestant Cay. During the fireworks display, an exclusion zone of 700 feet will be established around the deck barges at approximate position 17°45'3" N, 064°42'10" W. The duration of the temporary special local regulation is intended to protect personnel, vessels, and the marine environment in these navigable waters during the boat parade and fireworks display. No vessel or person, other than the event participants, will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative.

**V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

**A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of

Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the expected size, location and available exceptions to the enforcement of the special local regulation and safety zone. The regulated area will impact a small designated area of Christiansted Harbor in the vicinity of Protestant Cay in St. Croix, USVI during the event for seven hours on December 14, 2019 and thus is limited in time and scope. Although persons and vessels who are not participating in the event will not be able to enter, transit through, anchor in, or remain within the regulated area without authorization from the Captain of the Port San Juan or a designated representative, they may operate in the surrounding area during the enforcement period. Furthermore, the rule will allow vessels to seek permission to enter the regulated area. Persons and vessels may still enter, transit through, anchor in, or remain within the regulated during the enforcement period if authorized by the Captain of the Port San Juan or a designated representative. The Coast Guard will issue a Local Notice to Mariners and a Broadcast Notice to Mariners, allowing mariners to make alternative plans or seek permission to transit the regulated area.

**B. Impact on Small Entities**

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions

concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

### E. 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 (adjusted for inflation) 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.

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that 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 involves a special local regulation lasting only seven hours that will prohibit entry within the regulated area during the boat parade and fireworks display. It is categorically excluded from further review under paragraphs L60(a) and L61 in Table 3-1 of the Department of Homeland Security Directive 023-01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 and 165 as follows:

### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05-1.

■ 2. Add § 100.T799-0908 to read as follows:

#### § 100.T799-0908 Special Local Regulation; Christmas Boat Parade, Christiansted Harbor, St. Croix, USVI.

(a) *Location.* The following area is a special local regulation. Christiansted Harbor, 200 yards off-shore surrounding

Protestant Cay, St. Croix, USVI, from surface to bottom, beginning in position 17°45'3" N, 064°42'10" W, around the cay and back to the beginning position. During the fireworks display an exclusion zone of 700 feet is established around the deck barges at approximate position 17°45'3" N, 064°42'10" W. All coordinates are North American Datum 1983.

(b) *Definitions.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the Captain of the Port San Juan in the enforcement of the regulated areas.

(c) *Regulations.* (1) Except for those persons and vessels participating in boat parade or enforcing the special local regulation, all persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, remain within the regulated area by contacting the Captain of the Port San Juan by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. Those in the regulated area must comply with all lawful orders or directions given to them by the Captain of the Port or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners and on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 4 p.m. until 11 p.m. on December 14, 2019.

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 3. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 4. Add § 165.T07-0908 to read as follows:

#### § 165.T07-0908 Safety Zone; Christmas Boat Parade Fireworks Display, Christiansted Harbor, St. Croix, USVI.

(a) *Location.* A safety zone is established approximately 700 feet around the deck barges at approximate position 17°45'3" N, 064°42'10" W. All coordinates are North American Datum 1983.

(b) *Definitions.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast

Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the Captain of the Port San Juan in the enforcement of the regulated areas.

(c) *Regulations.* (1) Except for those persons and vessels participating in boat parade or enforcing the special local regulation, all persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, remain within the regulated area by contacting the Captain of the Port San Juan by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. Those in the regulated area must comply with all lawful orders or directions given to them by the Captain of the Port or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners and on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 4 p.m. until 11 p.m. on December 14, 2019.

Dated: December 5, 2019.

**E. P. King,**

*Captain, U.S. Coast Guard, Captain of the Port San Juan.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2019-0171; FRL-10002-97-Region 4]

#### Air Plan Approval; Tennessee: Knox County Miscellaneous Revisions

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving several Tennessee State Implementation Plan (SIP) revisions submitted by the Tennessee Department of Environment and Conservation (TDEC), on behalf of Knox County's Air Quality Management Division by a letter dated May 24, 2018. The submissions revise four sections of Knox County's Air Quality Management Regulations covering definitions, opening burning, permits and emissions reporting requirements. These actions are being approved pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule will be effective January 9, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2019-0171. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

In a letter dated May 24, 2018, TDEC submitted SIP revisions to EPA for approval into the Knox County portion of the Tennessee SIP.<sup>1</sup> Specifically, the May 24, 2018, SIP revisions include changes to the following Knox County SIP-approved regulations: Section 13.0—"Definitions," Section 16.0—"Open Burning," Section 25.11—"Limiting a Source's Potential to Emit of VOC by Recordkeeping," and Section 26.0—"Monitoring, Recording, and Reporting." These revisions are intended, in part, to conform Knox County's regulations with the State of Tennessee's SIP-approved regulations.

See EPA's notice of proposed rulemaking (NPRM) published on October 22, 2019 (84 FR 56407) for

further detail on the changes made in the July 2, 2018, submission. Comments were due on November 21, 2019, and EPA received no adverse comments on the NPRM. EPA is approving the changes to four sections of Knox County's rules: Section 13.0—"Definitions," Section 16.0—"Open Burning," Section 25.11—"Limiting a Source's Potential to Emit of VOC by Recordkeeping," and Section 26.0—"Monitoring, Recording, and Reporting" because these changes are consistent with the CAA.

#### II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Knox County's Air Quality Management Regulations, Section 13.0—"Definitions," state effective January 24, 2018; Section 16.2—"Definitions," state effective January 24, 2018; Section 25.11—"Limiting a Source's Potential to Emit of VOC by Recordkeeping," state effective October 18, 2017; and Section 26.7—"Emission Inventory Requirements," state effective October 18, 2017. These revisions are intended, in part, to conform Knox County's regulations with the State of Tennessee's SIP-approved regulations. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>2</sup>

#### III. Final Action

EPA is approving the aforementioned changes to the Knox County portion of the Tennessee SIP submitted on May 24, 2018, that make revisions to Knox County's Air Quality Management Regulations, Section 13.0—"Definitions," Section 16.0—"Open Burning," Section 25.11—"Limiting a Source's Potential to Emit of VOC by Recordkeeping," and Section 26.0—"Monitoring, Recording, and

<sup>1</sup> EPA notes that the Agency received the SIP revision on May 29, 2018.

<sup>2</sup> See 62 FR 27968 (May 22, 1997).