

RFA class exemption with respect to the Class IV RFAs (in this case, inventory) are satisfied if the absolute value of the sum of the basis differences with respect to the Class IV RFAs is less than the threshold of \$2 million, the greater of \$2 million or \$1.5 million (10% of the total U.S. basis of Class IV RFAs of \$15 million (15 million u translated into dollars at the exchange rate of \$1 = 1u)). In this case, the absolute value of the sum of the basis differences is \$1 million (1 million u translated into dollars at the exchange rate of \$1 = 1 u). Because the sum of the basis differences of \$1 million is less than the threshold of \$2 million, the requirements of the RFA class exemption are satisfied. Accordingly, the basis differences with respect to the Class IV RFAs are not taken into account under section 901(m).

(D) The requirements of the RFA class exemption with respect to the Class V RFAs (in this case, buildings) is satisfied if the absolute value of the sum of the basis differences with respect to the Class V RFAs is less than the threshold of \$3 million, the greater of \$2 million or \$3 million (10% of the total U.S. basis of Class V RFAs of \$30 million (30 million u translated into dollars at the exchange rate of \$1 = 1u)). In this case, the absolute value of the sum of the basis differences is \$11 million (11 million u translated into dollars at the exchange rate of \$1 = 1 u). Because the sum of the basis differences of \$11 million is not less than the threshold of \$3 million, the requirements of the RFA class exemption are not satisfied. Finally, because the absolute value with respect to each RFA is greater than \$20,000, the RFA exemption does not apply. Accordingly, the basis differences with respect to the Class V RFAs are taken into account under section 901(m).

(E) The Class I RFAs (in this case, cash) are irrelevant because there are no basis differences with respect to those RFAs.

(g) *Applicability dates.* This section applies to CAAs occurring on or after March 23, 2020. Taxpayers may, however, choose to apply this section before the date this section is applicable provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(1) Consistently apply this section, § 1.704–1(b)(4)(viii)(c)(4)(v) through (vi), § 1.901(m)–1, §§ 1.901(m)–3 through 1.901(m)–6 (excluding § 1.901(m)–4(e)), and § 1.901(m)–8 to all CAAs occurring on or after January 1, 2011, and consistently apply § 1.901(m)–2 (excluding § 1.901(m)–2(d)) to all CAAs occurring on or after December 7, 2016, on any original or amended tax return for each taxable year for which the application of the provisions listed in this paragraph (g)(1) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable;

(2) File all tax returns described in paragraph (g)(1) of this section for any

taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(3) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (g)(1) of this section for taxable years that are not open for assessment.

#### § 1.901(m)–7T [Removed]

■ **Par. 16.** Section 1.901(m)–7T is removed.

■ **Par. 17.** Section 1.901(m)–8 is added to read as follows:

#### § 1.901(m)–8 Miscellaneous.

(a) *In general.* This section provides guidance on other matters under section 901(m). Paragraph (b) of this section provides guidance on the application of section 901(m) to pre-1987 foreign income taxes. Paragraph (c) of this section provides anti-abuse rules relating to built-in loss assets. Paragraph (d) of this section provides guidance on the interaction of section 901(m) and section 909. Paragraph (e) of this section provides applicability dates.

(b) *Application of section 901(m) to pre-1987 foreign income taxes.* Section 901(m) and §§ 1.901(m)–1 through 1.901–8 apply to pre-1987 foreign income taxes (as defined in § 1.902–1(a)(10)(iii)) of an applicable foreign corporation.

(c) *Anti-abuse rule for built-in loss RFAs.* A basis difference with respect to an RFA described in section 901(m)(3)(C)(ii) (*built-in loss RFA*) will not be taken into account for purposes of computing an allocated basis difference for a U.S. taxable year of a section 901(m) payor if any RFA, including an RFA other than built-in loss RFAs, is acquired with a principal purpose of using one or more built-in loss RFAs to avoid the application of section 901(m). Furthermore, a basis difference with respect to a built-in loss RFA will not be taken into account for purposes of the cumulative basis difference exemption or the RFA class exemption under § 1.901(m)–7 if any RFAs, including RFAs other than built-in loss RFAs, are acquired with a principal purpose of avoiding the application of section 901(m).

(d) *Interaction with section 909.* The amount of a foreign income tax that is disqualified under section 901(m) is determined before applying section 909. However, section 909 may apply to suspend a deduction for the amount of a foreign income tax that is disqualified under section 901(m).

(e) *Applicability dates.* This section applies to CAAs occurring on or after March 23, 2020. Taxpayers may,

however, choose to apply this section before the date this section is applicable provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(1) Consistently apply this section, § 1.704–1(b)(4)(viii)(c)(4)(v) through (vi), § 1.901(m)–1, and §§ 1.901(m)–3 through 1.901(m)–7 (excluding § 1.901(m)–4(e)) to all CAAs occurring on or after January 1, 2011, and consistently apply § 1.901(m)–2 (excluding § 1.901(m)–2(d)) to all CAAs occurring on or after December 7, 2016, on any original or amended tax return for each taxable year for which the application of the provisions listed in this paragraph (e)(1) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable;

(2) File all tax returns described in paragraph (e)(1) of this section for any taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(3) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (e)(2) of this section for taxable years that are not open for assessment.

#### § 1.901(m)–8T [Removed]

■ **Par. 18.** Section 1.901(m)–8T is removed.

**Sunita Lough,**

*Deputy Commissioner for Services and Enforcement.*

Approved: February 13, 2020.

**David J. Kautter,**

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

[FR Doc. 2020–05551 Filed 3–20–20; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2020–0167]

RIN 1625–AA00

### Safety Zone; Pacific Ocean, Hilo Harbor, HI—Lighting Operations

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the navigable waters of Hilo Harbor,

Hawaii. The safety zone is needed to protect personnel, vessels and the marine environment from potential hazards associated with ongoing lightering operations of the vessel MIDWAY ISLAND grounded along the northwest side of Hilo Harbor, particularly through helicopter to shore hoisting ops and swimmers in the water. The USCG is overseeing contractor lightering ops to mitigate the pollution threat from the vessel in this area. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Honolulu.

**DATES:** This rule is effective without actual notice from March 23, 2020 until 8 p.m. on April 10, 2020. For the purposes of enforcement, actual notice will be used from March 12, 2020 through March 23, 2020.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–USCG–2020–0167 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 Chief Jason R. Olney, Waterways Management Division, U.S. Coast Guard; telephone 808–522–8265, email [Jason.R.Olney@uscg.mil](mailto:Jason.R.Olney@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
 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**

On February 6, 2020, a temporary final rule [USCG–2020–0113; 85 FR 8175 (Feb. 13, 2020)] was issued to establish a safety zone around the grounded vessel MIDWAY ISLAND. That rule expired at 8 p.m. on February 12, 2020. An additional temporary final rule [USCG–2020–0121; 85 FR 10981 (Feb. 26, 2020)] was issued on February 12, 2020 to maintain the safety zone around the grounded vessel. That rule expired at 8 p.m. on March 12, 2020. The Coast Guard is issuing this rule to establish the temporary safety zone so the lightering operations can continue.

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 immediate action is needed to respond to the potential safety hazards associated with this lightering operation, and therefore publishing an NPRM is impracticable and contrary to public interest.

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 would be contrary to the rule’s objectives of responding to potential safety hazards associated with the lightering operations and protecting personnel, vessels, and the marine environment within the navigable waters of the safety zone.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. On February 3, 2020, the Coast Guard was informed of a vessel that ran aground along the northwest side of Hilo Harbor, Hawaii. The Coast Guard COTP Sector Honolulu has determined that potential hazards associated with the lightering operations constitute a safety concern for anyone within the designated safety zone. This rule is necessary to protect personnel, vessels, and the marine environment within the navigable waters of the safety zone during ongoing salvage operations.

**IV. Discussion of the Rule**

This rule establishes a safety zone from March 12, 2020 through 8 p.m. April 10, 2020 or until the lightering operations are complete, whichever is earlier. If the safety zone is terminated prior to 8 p.m. on April 10, 2020, the Coast Guard will provide notice via a broadcast notice to mariners.

The temporary safety zone encompasses all waters extending 100 yards in all directions around the location of ongoing lightering operations near position: 19°44’41.17” N; 155°05’24.23” W. This zone extends from the surface of the water to the ocean floor. The zone is intended to protect personnel, vessels, and the marine environment in these navigable waters from potential hazards associated with the lightering operations of a vessel aground in this area. No vessel or person will be permitted to enter the

safety zone absent the express authorization of the COTP or his 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 anticipated short duration of the lightering operations and the need to protect personnel, vessels and the marine environment in these navigable waters from potential hazards associated with the lightering operations of the vessel aground in this area. Moreover, the Coast Guard will issue a broadcast notice to mariners on marine channel 16 about the safety zone.

**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 safety zones 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.

#### 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, Rev. 1, associated implementing instructions, 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 safety zone lasting 29 days that will prohibit entry into the area during lightering efforts. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### 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 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:** 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.

■ 2. Add § 165.T14-0167 to read as follows:

#### **§ 165.T14-0167 Safety Zone; Pacific Ocean, Hilo Harbor, HI—Lightering Operations.**

(a) *Location.* The safety zone is located within the Captain of the Port (COTP) Honolulu Zone (See 33 CFR 3.70-10) and will encompass all navigable waters extending 100 yards in all directions from position: 19°44'41.17" N; 155°05'24.23" W. This zone extends from the surface of the water to the ocean floor.

(b) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply to the safety zone described in paragraph (a) of this section.

(1) All persons are required to comply with the general regulations governing safety zones found in this part.

(2) Entry into or remaining in this zone is prohibited unless expressly authorized by the COTP or his designated representative.

(3) Persons desiring to transit the safety zone identified in paragraph (a) of this section may contact the COTP at the Command Center telephone number (808) 842-2600 and (808) 842-2601, fax (808) 842-2642 or on VHF channel 16 (156.8 Mhz) to seek permission to transit the zone. If permission is granted, all persons and vessels must comply with the instructions of the COTP or his designated representative and proceed at the minimum speed necessary to maintain a safe course while in the zone.

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

(c) *Notice of enforcement.* The COTP Honolulu will cause Notice of the Enforcement of these safety zones described in this section to be made by Broadcast to the maritime community via marine safety broadcast notice to mariners on VHF channel 16 (156.8 MHz).

(d) *Definitions.* As used in this section, *designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the COTP to assist in enforcing the safety zone described in paragraph (a) of this section.

(e) *Enforcement period.* This section will be enforced from March 12, 2020, through 8 p.m. on April 10, 2020. If the safety zone is terminated prior to 8 p.m. on April 10, 2020, the Coast Guard will provide notice via a broadcast notice to mariners.

Dated: March 12, 2020.

**A.B. Avanni,**

*Captain, U.S. Coast Guard, Captain of the Port Honolulu.*

[FR Doc. 2020-05739 Filed 3-20-20; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R06-OAR-2011-0513; FRL-10006-30-Region 6]

#### Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; New Mexico and Albuquerque-Bernalillo County, New Mexico; Control of Emissions From Existing Other Solid Waste Incineration Units

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is withdrawing a direct final rule published on January 15, 2020, because a relevant adverse comment was received. The rule would have amended EPA regulations to notify the public of Clean Air Act (CAA) section 111(d)/129 negative declarations from New Mexico and Albuquerque-Bernalillo County, New Mexico for existing Other Solid Waste Incineration (OSWI) units. The EPA will address the comment received in a subsequent final rulemaking.

**DATES:** The direct final rule published on January 15, 2020 (85 FR 2316), is withdrawn effective March 23, 2020.

**FOR FURTHER INFORMATION CONTACT:** Karolina Ruan Lei, (214) 665-7346, [ruan-lei.karolina@epa.gov](mailto:ruan-lei.karolina@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” means the EPA. On January 15, 2020, we published a direct final rule notifying the public that we had received CAA section 111(d)/129 negative declarations from New Mexico and Albuquerque-Bernalillo County for existing OSWI units (85 FR 2316). These negative declarations certify that existing OSWI units subject to the requirements of sections 111(d) and 129 of the CAA do not exist within the specified jurisdictions in New Mexico. The direct final rule was published without prior proposal because we anticipated no adverse comments. We stated in the direct final rule that if we received relevant adverse comments by February 14, 2020, we would publish a timely withdrawal in the **Federal**

**Register.** Since we received a relevant adverse comment, we are withdrawing the direct final rule and will address the comment in a subsequent final rulemaking.

#### List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: March 13, 2020.

**Kenley McQueen,**

*Regional Administrator, Region 6.*

### PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ Accordingly, the amendments to 40 CFR part 62 published in the **Federal Register** on January 15, 2020 (85 FR 2316), which were to become effective on April 14, 2020, are withdrawn.

[FR Doc. 2020-05776 Filed 3-20-20; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket ID FEMA-2020-0002]

#### Final Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

**ADDRESSES:** The final BFEs for each community are available for inspection at the office of the Chief Executive

Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbbit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbbit@fema.dhs.gov](mailto:patrick.sacbbit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at [www.floodmaps.fema.gov/fhm/fmx\\_main.html](http://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

*National Environmental Policy Act.* FEMA included flood hazard mapping data dissemination determinations as part of the NFIP Nationwide Programmatic Environmental Impact Statement, published on November 3, 2017, and completed in accordance with the Council on Environmental Quality's National Environmental Policy Act implementing regulations in 40 CFR 1500-1508 and therefore has determined that this action will not have a significant effect on the human environment.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.