

current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,” paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### **PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### **§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 6002 Class E Surface Airspace.*

\* \* \* \* \*

#### **AGL MI E2 Port Huron, MI [Revoked]**

St. Clair County International Airport, MI  
(Lat. 42°54'40" N, long. 82°31'44" W)

Issued in Fort Worth, Texas, on September 1, 2021.

**Martin A. Skinner,**

*Manager, Operations Support Group, ATO  
Central Service Center.*

[FR Doc. 2021–19275 Filed 9–8–21; 8:45 am]

**BILLING CODE 4910–13–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket Number USCG–2021–0710]

**RIN 1625–AA00**

#### **Safety Zone; Anacostia River, Washington, DC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain waters of the Anacostia River. The safety zone is needed to protect personnel, vessels, and the marine environment on these navigable waters near Washington, DC, on September 4, 2021, and September 17, 2021, from potential hazards during fireworks displays occurring after Washington Nationals baseball games. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Maryland-National Capital Region or a designated representative.

**DATES:** This rule is effective without actual notice from September 9, 2021 until 11 p.m. on September 17, 2021. For the purposes of enforcement, actual notice will be used from 8 p.m. on September 4, 2021, until September 9, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0710 in the “SEARCH” box and click “SEARCH.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email MST3 Melissa Kelly, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2596, email [Melissa.C.Kelly@uscg.mil](mailto:Melissa.C.Kelly@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 it is impracticable and contrary to the public interest to do so. We must establish this safety zone by September 4, 2021, to protect the public from hazards associated with the fireworks events. Hazards include explosive materials, dangerous projectiles, and falling debris. The fireworks fall out zone extends across the navigable channel.

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 and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the fireworks displays.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port, Maryland-National Capital Region (COTP) has determined that potential hazards associated with the fireworks to be used in the September 4, 2021, and September 17, 2021, displays will be a safety concern for anyone near the fireworks barges. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the scheduled event.

## **IV. Discussion of the Rule**

This rule establishes a temporary safety zone from 8 p.m. on September 4, 2021, through 11 p.m. on September 17, 2021. The safety zone will be enforced from 8 p.m. to 11 p.m. on September 4, 2021, and from 8 p.m. to 11 p.m. on September 17, 2021. The safety zone

covers all navigable waters of the Anacostia River within 600 feet of the fireworks barge in approximate position latitude 38°52'14.29" N, longitude 077°00'12.00" W, located near Nationals Park in Washington, DC. The size of the zone and duration of the rule are intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the scheduled fireworks displays. No vessel or person will be permitted to enter the safety zone 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. 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).

This regulatory action determination is based on the size, duration, and time-of-day of the safety zone, which will impact a small designated area of the Anacostia River for 2 hours during evening hours when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the 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 zone 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 that will be enforced for 6 hours that will prohibit entry within a portion of the Anacostia River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. 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 protestors. 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. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T05–0710 to read as follows:

**§ 165.T05–0710 Safety Zone; Anacostia River, Washington, DC**

(a) *Location.* The following area is a safety zone: All navigable waters of the Anacostia River within 600 feet of the fireworks barge in approximate position latitude 38°52′14.29″ N, longitude 077°00′12.00″ W, located near Nationals Park, in Washington, DC. These coordinates are based on datum NAD 83.

(b) *Definitions.* As used in this section—

*Captain of the Port (COTP)* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

*Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (a) of this section.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP’s designated representative.

(2) To seek permission to enter, contact the COTP or the COTP’s representative by telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP’s designated representative.

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

(e) *Enforcement period.* This section will be enforced from 8 p.m. to 11 p.m. on September 4, 2021, and from 8 p.m. to 11 p.m. on September 17, 2021.

Dated: September 2, 2021.

**David E. O’Connell,**

*Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.*

[FR Doc. 2021–19426 Filed 9–8–21; 8:45 am]

**BILLING CODE 9110–04–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R06–OAR–2020–0166; FRL–8893–02–R6]

**Air Plan Approval; Texas; Clean Air Act Requirements for Nonattainment New Source Review and Emission Statements for the 2015 Ozone National Ambient Air Quality Standards**

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving the portions of a State Implementation Plan (SIP) revision submitted by the State of Texas that describes how CAA requirements for Nonattainment New Source Review (NNSR) and emission statements are met in the Dallas-Fort Worth (DFW), Houston-Galveston-Brazoria (HGB), and Bexar County ozone nonattainment areas for the 2015 Ozone National Ambient Air Quality Standards (NAAQS).

**DATES:** This rule is effective on October 12, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2020–0166. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., 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. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Robert Todd, EPA Region 6 Office, Infrastructure and Ozone Section, 214–665–2156, [todd.robert@epa.gov](mailto:todd.robert@epa.gov). The EPA Region 6 office is closed to the public to reduce the risk of transmitting COVID–19. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.  
**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

**I. Background**

The background for this action is discussed in detail in our February 11, 2021 proposal (86 FR 9041). In that

document we proposed to approve portions of a SIP revision submitted by the State of Texas on June 24, 2020, that describes how CAA requirements for NNSR and emission statements are met in the DFW, HGB, and Bexar County ozone nonattainment areas for the 2015 ozone NAAQS.

We received comments on our proposal, from several commenters. Our responses to the comments follow.

**II. Response to Comments**

*Comment:* Two commenters pointed out that the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacated portions of the 2018 rule implementing the 2015 Ozone NAAQS that allowed inter-precursor trading of pollutants.<sup>1</sup> One commenter stated that according to a Texas Commission on Environmental Quality (TCEQ) guidance document, EPA’s approval of inter-precursor trade (IPT) is presumed unless EPA disapproves the trade during the public comment period. The commenter also stated that EPA cannot rely on previous approvals of the State’s NNSR program to meet current requirements.

*Response:* While the D.C. Circuit has rendered a judgment vacating the portion of EPA’s NNSR EPA regulation that allows inter-precursor trading to meet the offset requirements for ozone, the ozone inter-precursor trading component in the Texas NNSR program regulations is no longer operative for ozone and thus does not preclude approval of this SIP revision that otherwise satisfies NNSR requirements. The court held that the IPT provision for ozone in EPA’s NNSR regulation was contrary to the CAA because “[t]he plain language in the statute . . . requires that increased [volatile organic compound] VOC emissions be offset with reductions in VOC, and the same is true for ozone in most circumstances.”<sup>2</sup> Following the court’s decision, EPA notified TCEQ in a letter dated June 17, 2021, that the EPA can no longer approve any IPT requests for ozone under procedures in the Texas SIP rules that require that TCEQ submit such trades to EPA for approval. In a response to EPA dated June 25, 2021, TCEQ confirmed that its NNSR inter-precursor trading provisions cannot function without EPA’s approval of trades, and the State has not approved any IPT requests for ozone without the prior approval of EPA.<sup>3</sup> In its June 25,

<sup>1</sup> *Sierra Club v. EPA*, 985 F.3d 1055 (D.C. Cir. 2021).

<sup>2</sup> *Sierra Club*, 985 F.3d at 1060–61.

<sup>3</sup> The text of each letter is available in the docket to this action.