

Exclusion Determination” are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09.001 to read as follows:

§ 165.T09—001 Temporary Regulated Navigation Area between mile markers 296.1 and 296.7 of the Chicago Sanitary and Ship Canal located near Romeoville, IL.

(a) *Location.* The following is a Regulated Navigation Area: All waters of the Chicago Sanitary and Ship Canal, Romeoville, IL beginning at the north side of Romeo Road Bridge Mile Marker 296.1, and ending at the south side of the Aerial Pipeline Mile Marker 296.7.

(b) *Effective Period:* This rule is effective from 3 p.m. (CST) January 13, 2005 until 12 p.m. (CST) June 30, 2005.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.13 apply.

(2) All vessels are prohibited from loitering in the vicinity of the electrical dispersal barrier. “Vicinity” of the electrical dispersal barrier is defined as the Chicago Sanitary and Ship Canal from the north side of the Romeo Highway Bridge at Mile Marker 296.1 to the aerial pipeline arch located at Mile Marker 296.7. Vessels may enter this section of the waterway with the sole purpose of transiting to the other side, and must maintain headway throughout the transit. All personnel on open decks must wear a Coast Guard approved Type I personal flotation device while in the “vicinity” until subsequent field testing determines the waters in this area do not pose significant risk to human life. Vessels may not moor or lay up on the right or left descending banks. Towboats may not make or break tows. Vessels may not pass (meet or overtake) in the “vicinity” and must make a SECURITE call when approaching the barrier to announce intentions and work out passing arrangements on either side.

Commercial tows transiting the barrier must be made up with wire rope to ensure electrical connectivity between all segments of the tow.

(3) All persons and vessels shall comply with this rule and any additional instructions of the Ninth Coast Guard District Commander, or his designated representative.

Dated: January 13, 2005.

R.J. Papp,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 05–1425 Filed 1–25–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Jacksonville 04–133]

RIN 1625–AA00

Safety Zone; St. Johns River, Jacksonville, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones on the St. Johns River off the Main Street Bridge, the Acosta Bridge, and the Hart Bridge. These safety zones are necessary for the Super Night of Lights fireworks display scheduled on February 3, 2005, downtown Jacksonville and will protect participants, vendors, and spectators from the hazards associated with the launching of fireworks off the aforementioned bridges and cascading onto the St. Johns River. These temporary safety zones prohibit persons or vessels from entering the zone, unless authorized by the Captain of the Port Jacksonville or a designated representative.

DATES: This rule is effective from 9:45 p.m. to 10:45 p.m. on February 3, 2005.

ADDRESSES: Documents mentioned in this preamble as being available in the docket, are part of docket [COTP Jacksonville 04–133] and are available for inspection and copying at Coast Guard Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, Florida, 32211, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade Carol Swinson at Coast Guard Marine Safety Office Jacksonville, Florida, tel: (904) 232–2640, ext. 155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553 (b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, and delaying the rule’s effective date is contrary to public safety because immediate action is necessary to protect the public and waters of the United States.

For the same reasons, 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**. The Coast Guard will issue a broadcast notice to mariners and may place Coast Guard vessels in the vicinity of this zone to advise mariners of the restriction.

Background and Purpose

This rule is needed to protect spectator craft in the vicinity of the fireworks presentation from the hazards associated with transport, storage, and launching of fireworks. Anchoring, mooring, or transiting within these zones is prohibited, unless authorized by the Captain of the Port, Jacksonville, Florida. The temporary safety zone encompasses all waters 500 yards east and west of the Main Street Bridge, 500 yards east of the Acosta Bridge, and 500 yards west of the Hart Bridge.

Regulatory Evaluation

This regulation 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 cost and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has exempted it from review under the order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS) because these regulations will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. “Small entities” include small businesses, not-for-profit organizations that are independently owned and operated and are not dominate in their

field, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b) that this rule will not have a significant economic impact upon a substantial number of small entities because the regulations will only be in effect for one hour and the impact on routine navigation are expected to be minimal because traffic may transit safely around the zone and traffic may enter upon permission of the Captain of the Port or his representative.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 and annually 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).

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

State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Although 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 affect 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 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 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 significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use

voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. Under figure 2-1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

List of Subjects in 33 CFR Part 165

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■ 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; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T-07-133 is added to read as follows:

§ 165.T-07-133 Safety Zone St. Johns River, Jacksonville, Florida.

(a) *Regulated area.* The Coast Guard is establishing temporary safety zones on the St. Johns River extending 500 yards east and west of the Main Street Bridge,

500 yards east of the Acosta Bridge, and 500 yards west of the Hart Bridge.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Jacksonville, Florida.

(c) *Dates.* This rule is effective from 9:45 p.m. to 10:45 p.m. on February 3, 2005.

Dated: January 18, 2005.

David L. Lepsch,

Captain, U.S. Coast Guard, Captain of the Port Jacksonville.

[FR Doc. 05-1427 Filed 1-25-05; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 30 and 31

[FRL-7863-3]

Notice of Availability of Class Deviation; Assistance Agreement Competition-Related Disputes Resolution Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This document provides notice of the availability of a Class Deviation from EPA's assistance agreement dispute procedures and also sets forth the procedures that will apply to the resolution of competition-related disputes and disagreements that may arise in connection with the competition of EPA assistance agreements. Currently, assistance agreement competition-related disputes and disagreements are resolved in accordance with EPA assistance agreement dispute procedures that apply to financial assistance to institutions of higher education, hospitals, non-profit organizations, States, tribes, local governments and other eligible entities. EPA has determined, however, through a Class Deviation, that these procedures are not practicable to use for competition-related disputes and disagreements and that it is appropriate to replace those procedures with the procedures contained in this document. These new dispute resolution procedures will apply to competitive awards that are subject to applicable EPA assistance agreement procedures unless there are program specific statutory or regulatory dispute procedures that apply to such awards. The Class Deviation and this action only affect the dispute resolution

procedures for assistance agreement competition-related disputes and disagreements.

DATES: These procedures are effective upon January 26, 2005.

FOR FURTHER INFORMATION CONTACT: Bruce Binder, Associate Director for Grants Competition, Office of Grants and Debarment, 1200 Pennsylvania Avenue, NW., Mail Code 3901R, Washington, DC 20460. The telephone number is (202) 564-4935; facsimile number (202) 565-2469; and e-mail address is binder.bruce@epa.gov. Copies of the Class Deviation are available by contacting Bruce Binder as indicated above.

SUPPLEMENTARY INFORMATION: This action sets forth the dispute resolution procedures based on the Class Deviation that are to be used in lieu of the dispute procedures contained in 40 CFR 30.63 and 40 CFR part 31, subpart F, 40 CFR 31.70 for the resolution of EPA assistance agreement competition-related disputes and disagreements. These procedures will ensure that applicants are provided with a meaningful and effective dispute resolution process for assistance agreement competition-related disputes and disagreements. The procedures provide that unsuccessful applicants will receive timely notification that EPA determined that their application or proposal was either ineligible for an award or was not selected for an award. Applicants may then, upon request, obtain a timely debriefing on the basis for the Agency's decision. Debriefings may be oral or written but are mandatory if the applicant intends to file a dispute in order to minimize misunderstandings between the Agency and the applicant and provide an opportunity to expeditiously resolve differences without the need to file a formal dispute. The applicant may file a formal dispute within 15 calendar days after the debriefing.

In addition to establishing a nationally consistent assistance agreement competition disputes process, the procedures in this document clarify roles and responsibilities and specify the circumstances in which applicants may dispute EPA decisions. Agency Officials must appoint a Grants Competition Disputes Decision Official (GCDDO) to resolve the dispute; the GCDDO cannot be involved in the decision that is the subject of the dispute. The GCDDO determines whether the issues raised in the dispute warrant delaying the competitive process until the dispute is resolved. These procedures also generally limit disputes to eligibility-

type determinations made by EPA and generally do not allow an applicant to challenge a scoring or ranking determination, unless there is a compelling reason or an issue of national significance which would warrant EPA review of the dispute. The procedures also establish that the GCDDO's decision will constitute final agency action for the purposes of judicial review with no right to any further EPA review.

In addition, EPA headquarters and regional program offices may, with the approval of the EPA Grants Competition Advocate, adopt dispute resolution procedures that are "substantially the same" as the procedures contained in this document. Each EPA announcement for a competitive assistance agreement will either include or reference the applicable disputes procedure for that particular competition (if referenced, the announcement will indicate how applicants can obtain a copy of the dispute procedures).

Regulated Entities: The assistance agreement competition-related disputes procedures covered by this action apply to all entities which compete for competitive assistance agreement awards that are subject to the applicable EPA assistance agreement procedures found at 40 CFR parts 30, 31, and 35 unless the part 35 regulations contain specific dispute procedures that apply to such awards.

Background: The regulatory disputes resolution coverage currently found at 40 CFR 31.70 was initially codified in the CFR on September 30, 1983 at 40 CFR 30.303(b) and 40 CFR part 30, subpart L (1983). 48 FR 4506 (September 30, 1983). At that time, EPA changed the assistance agreement disputes process from an adversarial, trial type process before the EPA Board of Assistance Appeals, to a more informal system administered by Agency program managers. The preamble to the final rule described the 1983 changes to the disputes process as follows:

The new process will:

1. Encourage cooperation between the Agency's officials and those applying for and receiving assistance.
2. Develop a good administrative record to support the Agency's final decisions.
3. Provide applicants and recipients high-level review of Agency decisions and a forum for resolving disputes informally, expeditiously, and inexpensively.
4. Provide applicants and recipients a written decision explaining the basis for the position.