

Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant

energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, 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)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under those sections. Under figure 2–1, paragraph (34)(h), 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 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

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

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

**Authority:** 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

■ 2. The Coast Guard amends the temporary final rule published July 15, 2005 (70 FR 40882) entitled, “special Local Regulations for Marine Events; Manasquan River, Manasquan Inlet and Atlantic Ocean, Point Pleasant Beach to Bay Head, NJ”.

#### § 100.35–T05–073 [Amended]

■ 3. In FR rule doc. 05–13962, published on July 15, 2005 (70 FR 40882), make the following amendments to § 100.35–T05–073:

■ A. On page 40884, in the second column, revise paragraph (a);

■ B. On page 40884, in the third column, in paragraph (c)(3), line 2, remove the word “north” and add “outside” in its place; and

■ C. On page 40884, in the third column, remove paragraph (c)(4) and redesignate paragraph (c)(5) as (c)(4).

The revision reads as follows:

(a) *Regulated area.* The regulated area is established for the waters of the Atlantic Ocean bounded by a line drawn from a position along the shoreline near Normandy Beach, NJ at latitude 40°00′00″ N, longitude 074°03′30″ W, thence easterly to latitude 39°59′40″ N, longitude 074°02′00″ W, thence southwesterly to latitude 39°56′35″ N, longitude 074°03′00″ W, thence westerly to a position near the Seaside Heights Pier at latitude 39°56′35″ N, longitude 074°04′15″ W, thence northerly along the shoreline to the point of origin. All coordinates reference Datum NAD 1983.

Dated: August 1, 2005.

**L.L. Hereth,**

*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 05–15783 Filed 8–9–05; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD09–05–102]

RIN 1625–AA11

**Regulated Navigation Area, Chicago Sanitary and Ship Canal, Romeoville, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is extending the previously established temporary final rule published in the **Federal Register** on January 26, 2005 which created a regulated navigation area on the Illinois Waterway near Romeoville, IL. This temporary regulated navigation area will place navigational and operational restrictions on all vessels transiting through the demonstration electrical dispersal barrier located on the Chicago Sanitary and Ship Canal. This regulated navigation area is necessary to protect vessels and their crews from harm as a result of electrical discharges emitting from the electrical dispersal barrier as vessels transit over it.

**DATES:** This rule is effective from 12 p.m. (local) June 30, 2005 through 12 p.m. (local) December 31, 2005.

Comments and related materials must reach the Docket Management Facility on or before December 31, 2005.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [CGD09-05-102] to the Commander (m) Ninth Coast Guard District, 1240 E. 9th Street, Room 2069, Cleveland, OH 44199. The Marine Safety and Analysis Branch (map) is the document management facility for this temporary rule and maintains the public docket for this rulemaking. Documents that become a part of this docket are available for inspection between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have further questions on this rule, contact CDR K. Phillips, Marine Safety and Analysis Branch, Cleveland, at (216) 902-6045.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to submit comments and related materials. Comments and related materials must reach the Docket Management Facility on or before December 31, 2005.

**Submitting Comments**

If you submit a comment, please include your name and address, identify the docket number for this rulemaking [CGD09-05-102], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail or delivery to the docket management facility (see **ADDRESSES**); but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an

unbound format, no larger than 8 by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period, which may result in a modification to the rule.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one to the docket management facility (see **ADDRESSES**) explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this rulemaking. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This potential hazard to vessels and people only recently became apparent, and therefore we were unable to publish an NPRM followed by a final rule. At this point, it would be impracticable and contrary to the public interest to provide for notice and comment, due to the need to prevent the risk of electrical hazard to vessels and their crew/passengers. During the enforcement of this regulated navigation area, comments will be accepted and reviewed and may result in a modification to the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists to make this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be impracticable and contrary to the public interest of ensuring the safety of persons and vessels, and immediate action is necessary to prevent possible loss of life or property.

**Background and Purpose**

On January 7, 2005, the U.S. Army Corps of Engineers, in close coordination with the U. S. Coast Guard, conducted preliminary safety tests on the Chicago Sanitary and Ship Canal at Mile Marker 296.5 in the vicinity of the demonstration electrical dispersal barrier located on the canal near Romeoville, IL. This barrier was constructed to prevent Asian Carp from entering Lake Michigan through the Illinois River system by generating a low-voltage electric field across the canal. The Coast Guard and Army Corps of Engineers conducted field tests to ensure the continued safe navigation of

commercial and recreational traffic across the barrier; however, results indicated a significant arcing risk and hazardous electrical discharges as vessels transited the barrier posing a significant risk to navigation through the barrier. To mitigate this risk, navigational and operational restrictions will be placed on all vessels transiting through the vicinity.

On January 26, 2005 this regulated navigational area was published in the **Federal Register** (70 FR 3625) as a temporary final rule. Testing has continued since the regulation was first proposed in January 2005. The testing on the electrical dispersal barrier is still being conducted. Preliminary results indicate that further tests and analysis are warranted. Therefore, the Coast Guard is enacting a second RNA and comment period.

**Discussion of Comments and Changes**

Five comments have been received so far with regards to the first RNA. These have been reviewed, evaluated and responded to. A summary of each follows:

We received two comments concerning the requirement to wear a Coast Guard approved Type I personal flotation device (PFD) while in the demonstration electrical dispersal barrier. It was suggested that the wearing of the Type V PFD would be sufficient. The COTP Chicago has determined that until subsequent field-testing determines the waters in this area do not pose significant risks to human life, the wearing of the Type I will be the standard. A Type I PFD is designed to provide support to the head so that the face of an unconscious or exhausted person is held above the water.

One comment recommended that visual warnings be posted to alert towboat pilots well before the demonstration electrical dispersal barrier. The Coast Guard is presently working with the Army Corp of Engineers to install signs, facing both directions, that will alert waterway operators prior to entering the electrical barrier.

One comment requested that, as the Corp's testing provides new information, that the RNA be reopened for further comment. The Coast Guard will not proceed with a permanent final rule until all testing data has been gathered, analyzed, and reviewed by all concerned parties. The rulemaking will remain open for comment throughout this process.

One comment requested that the Coast Guard allow emergency exception to the requirements that vessels may not

moor or lay up on the right or left descending banks, and towboats may not make or break tows. The Coast Guard does not find this reasonable. Test results indicate such activities in the vicinity of the fish barrier cause electrical arcing and are inherently dangerous at all times when the fish barrier is energized; even in emergency situations.

A request for a public meeting was received by one commenter in order to submit information on the generally accepted use of Type V PFDs as work vests for deck crews in the towing industry, the cost and burden associated with the requirement for Type I PFDs for the limited area versus the equipment required under federal equipment standards, and the company's safety program. The Coast Guard will take the request for a public meeting under consideration.

#### Discussion of Rule

Until this potential hazard to navigation can be rectified, the Coast Guard will require vessels transiting the regulated navigation area to adhere to specified operational and navigational requirements. The regulated navigation area encompasses all waters of 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. The requirements placed on vessels include: All vessels are prohibited from loitering in the regulated navigation area. 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 regulated navigation area 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 regulated navigation area 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.

These restrictions are necessary for safe navigation of the barrier and to ensure the safety of vessels and their personnel as well as the public's safety due to the electrical discharges noted during recent safety tests conducted by

the Army Corps of Engineers. Deviation from this rule is prohibited unless specifically authorized by the Commander, Ninth Coast Guard District or his designated representative.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This determination is based on the fact that traffic will still be able to transit through the RNA.

#### Small Entities

This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

We suspect that there may be small entities affected by this rule but are unable to provide more definitive information. The risk, outlined above, is severe and requires that immediate action be taken. The Coast Guard will evaluate as more information becomes available.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on 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).

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

## Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

## Environment

We have analyzed this rule under 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 made a preliminary determination 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 we believe this rule should be categorically excluded,

under figure 2–1, paragraph 34 (g) from further environmental documentation. This temporary rule establishes a regulated navigation area and as such is covered by this paragraph.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

## List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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.T09.102 to read as follows:

### § 165.T09.102 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 12 p.m. (local) June 30, 2005 through 12 p.m. (local) December 31, 2005.

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

(2) All vessels are prohibited from loitering in the regulated navigation area. 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 regulated navigation area 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 regulated navigation area 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: June 30, 2005.

**R.J. Papp, Jr.,**

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

[FR Doc. 05–15781 Filed 8–9–05; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP–2005–0156; FRL–7726–9]

### Topramezone; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of topramezone in or on field corn, pop corn, sweet corn, kidney, and liver. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective August 10, 2005. Objections and requests for hearings must be received on or before October 11, 2005.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number OPP–2005–0156. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI 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