

and Ship Canal, Romeoville, IL located between mile marker 295.0 (approximately 1.1 miles south of the Romeo Road Bridge) and mile marker 297.5 (approximately 1.3 miles northeast of the Romeo Road Bridge).

(1) *Definitions.* The following definitions apply to this section:

*Bow boat* means a towing vessel capable of providing positive control of the bow of a tow containing one or more barges, while transiting the regulated navigation area. The bow boat must be capable of preventing a tow containing one or more barges from coming into contact with the shore and other moored vessels.

*Designated representatives* means the Captain of the Port Lake Michigan and Commanding Officer, Marine Safety Unit Chicago.

*Hazardous material* means any material as defined in 46 CFR 150.115.

*Red flag barge* means any barge certificated to carry any hazardous material in bulk.

(2) *Notice of enforcement or suspension of enforcement.* The Captain of the Port Lake Michigan will enforce the regulated navigation area established by this section only upon notice. Captain of the Port Lake Michigan will cause notice of the enforcement of this regulated navigation area to be made by all appropriate means to effect the widest publicity among the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan will issue a Broadcast Notice to Mariners and Local Notice to Mariners notifying the public when enforcement of this regulated navigation area is suspended.

(3) *Regulations.* (i) The general regulations contained in 33 CFR 165.13 apply.

(ii) All up-bound and down-bound barge tows that contain one or more red flag barges transiting through the regulated navigation area must be assisted by a bow boat until the entire tow is clear of the regulated navigation area.

(iii) Vessels engaged in commercial service, as defined in 46 U.S.C 2101(5), may not pass (meet or overtake) in the regulated navigation area and must make a SECURITE call when approaching the regulated navigation area to announce intentions and work out passing arrangements on either side.

(iv) Commercial tows transiting the regulated navigation area must be made

up with wire rope to ensure electrical connectivity between all segments of the tow.

(v) All vessels are prohibited from loitering between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(vi) Vessels may enter the waters between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge) for the sole purpose of transiting to the other side and must maintain headway throughout the transit. All vessels and persons are prohibited from dredging, laying cable, dragging, fishing, conducting salvage operations, or any other activity, which could disturb the bottom of the canal in the area located between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(vii) All personnel on open decks must wear a Coast Guard approved Type I personal flotation device while in the waters between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(viii) Vessels may not moor or lay up on the right or left descending banks of the waters between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(ix) Towboats may not make or break tows if any portion of the towboat or tow is located in the waters between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(4) *Compliance.* All persons and vessels must comply with this section and any additional instructions or orders of the Ninth Coast Guard District Commander, or his designated representatives. Any person on board any vessel transiting this regulated navigation area in accordance with this rule or otherwise does so at their own risk.

(5) *Waiver.* For any vessel, the Ninth Coast Guard District Commander, or his designated representatives, may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of vessel and mariner safety.

Dated: October 16, 2009.

**D.R. Callahan,**

*Captain, U.S. Coast Guard, Commander, Ninth Coast Guard District, Acting.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0949]

RIN 1625-AA00

#### Safety Zone; Fireworks Displays, Potomac River, National Harbor, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone upon specified waters of the Potomac River. This action is necessary to provide for the safety of life on navigable waters during fireworks displays launched from discharge sites located at National Harbor, in Prince Georges County, Maryland. This safety zone is intended to protect the maritime public in a portion of the Potomac River.

**DATES:** This rule is effective from 6 p.m. November 19, 2009 through 8 p.m. November 28, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0949 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0949 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Mr. Ronald L. Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410-576-2674, e-mail [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

## Regulatory Information

The Coast Guard is issuing this temporary final 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 contrary to public interest to delay the effective date of this rule. Delaying the effective date by first publishing an NPRM would be contrary to the safety zone's intended objectives since immediate action is needed to protect persons and vessels against the hazards associated with fireworks displays on navigable waters. Such hazards include premature detonations, dangerous projectiles and falling or burning debris.

For the same reasons as above, 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**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

## Background and Purpose

Fireworks displays are frequently held from locations on or near the navigable waters of the United States. The potential hazards associated with fireworks displays are a safety concern during such events. The purpose of this rule is to promote public and maritime safety during fireworks displays, and to protect mariners transiting the area from the potential hazards associated with the fireworks displays, such as the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is needed to ensure safety on the waterway during the scheduled events.

## Discussion of Rule

The Gaylord Hotel at National Harbor will sponsor a fireworks display from a barge located in the Potomac River scheduled on Thursday, November 19, 2009 at 7 p.m. and a fireworks display

from the end of a pier located in the Potomac River scheduled on Friday, November 27, 2009 at 6:45 p.m.

The Coast Guard is establishing a temporary safety zone on certain waters of the Potomac River, within an area bounded by a line drawn from the following points: latitude 38°46'51" N, longitude 077°01'15" W; thence to latitude 38°47'25" N, longitude 077°01'33" W; thence to latitude 38°47'32" N, longitude 077°01'08" W; thence to latitude 38°47'13" N, longitude 077°00'58" W; thence along the shoreline to the point of origin, located at National Harbor, Maryland (NAD 1983). The temporary safety zone will be enforced from 6 p.m. through 8:30 p.m. on November 19, 2009, and if necessary due to inclement weather, from 6 p.m. through 8:30 p.m. on November 20, 2009; and from 5:30 p.m. through 8 p.m. on November 27, 2009, and if necessary due to inclement weather, from 5:30 p.m. through 8 p.m. on November 28, 2009. The effect of this temporary safety zone will be to restrict navigation in the regulated area during the fireworks displays. No person or vessel may enter or remain in the safety zone. Vessels will be allowed to transit the waters of the Potomac River outside the safety zone. Notification of the temporary safety zone will be provided to the public via marine information broadcasts.

## Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

## Regulatory Planning and Review

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. The Office of Management and Budget has not reviewed it under that Order. Although this safety zone will restrict some vessel traffic, there is little vessel traffic associated with commercial fishing, and recreational boating in the area can transit waters outside the safety zone. In addition, the effect of this rule will not be significant because the safety zone is of limited duration and limited size. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to operate, transit, or anchor in a portion of the Potomac River, located at National Harbor, MD, from 6 p.m. through 8:30 p.m. on November 19, 2009, and if necessary due to inclement weather, from 6 p.m. through 8:30 p.m. on November 20, 2009 and from 5:30 p.m. through 8 p.m. on November 27, 2009, and if necessary due to inclement weather, from 5:30 p.m. through 8 p.m. on November 28, 2009. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone is of limited size and duration. In addition, before the effective period, the Coast Guard will issue maritime advisories widely available to users of the waterway to allow mariners to make alternative plans for transiting the affected area.

## Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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.

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.

### 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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone. An environmental analysis checklist and a categorical 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 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.T05–0949 to read as follows:

#### § 165.T05–0949 Safety Zone; Fireworks Displays, Potomac River, National Harbor, MD.

(a) *Regulated Area.* The following area is a safety zone: All waters in the Potomac River, within an area bounded by a line drawn from the following points: latitude 38°46′51″ N, longitude 077°01′15″ W; thence to latitude 38°47′25″ N, longitude 077°01′33″ W; thence to latitude 38°47′32″ N, longitude 077°01′08″ W; thence to latitude 38°47′13″ N, longitude 077°00′58″ W; thence along the shoreline to the point of origin, located at National Harbor, Maryland (NAD 1983).

(b) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23 of this part.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Coast Guard Captain of the Port Baltimore.

(2) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port or his designated representative by telephone at 410–576–2693 or on VHF–FM marine band radio channel 16.

(3) All Coast Guard assets enforcing this safety zone can be contacted on VHF–FM marine band radio channels 13 and 16.

(4) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(c) *Definitions.* *Captain of the Port Baltimore* means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

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

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

(e) *Enforcement periods.* This section will be enforced:

(1) From 6 p.m. through 8:30 p.m. on November 19, 2009, and if necessary due to inclement weather, from 6 p.m. through 8:30 p.m. on November 20, 2009; and

(2) From 5:30 p.m. through 8 p.m. on November 27, 2009, and if necessary due to inclement weather, from 5:30 p.m. through 8 p.m. on November 28, 2009.

Dated: October 23, 2009.

**Mark P. O'Malley,**

*Captain, U.S. Coast Guard, Captain of the Port Baltimore, Maryland.*

[FR Doc. E9-27220 Filed 11-12-09; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2009-0558; FRL-8975-6]

### Revisions to the Arizona State PM-10 Implementation Plan; Maricopa County Air Quality Department

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the Maricopa Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on August 26, 2009 and concern particulate matter (PM) emissions from non-metallic mineral mining and processing in the Maricopa County (Phoenix) serious PM-10 nonattainment area. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on January 8, 2010.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2009-0558 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Sona Chilingaryan, EPA Region IX, (415) 972-3368, [chilingaryan.sona@epa.gov](mailto:chilingaryan.sona@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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#### I. Proposed Action

On August 26, 2009 (74 FR 43085), EPA proposed to approve the following rule into the Arizona SIP.

Local agency	Rule #	Rule title	Adopted	Submitted
MCAQD .....	316	Nonmetallic Mineral Processing .....	3/12/08	7/10/08

We proposed to approve this rule because we determined that it complied with the CAA requirements for Best Available Control Measures (Section 189(b)(1)(B)) and Most Stringent Measures (Section 188(e)). Our proposed action contains more information on the rule and our evaluation.

## II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

1. Lawrence Odle, Director, MCAQD; letter dated September 23, 2009 and received September 25, 2009.

2. Joy E. Herr-Cardillo, Staff Attorney, Arizona Center for Law in the Public Interest (ACLP); letter dated and received on September 25, 2009.

The comments and our responses are summarized below.

*Comment #1:* MCAQD supports our proposed approval of 316.

*Response #1:* No response necessary.

*Comment #2:* MCAQD provides information related to MCAQD's current efforts and future plans to improve and clarify Rule 316. MCAQD has initiated a rulemaking process to revise the rule to include alternative control measures approved by MCAQD and EPA, has formed a working group to evaluate the Department's experience with the moisture testing and sampling protocols related to the rule, and plans to separate the requirements in Rule 316 for different kinds of facilities into five separate rules. In the current rulemaking, the Department intends to separate product transfer and distribution facilities out of Rule 316, and in the future also plans to separate asphaltic concrete batch plants, concrete batch plants, inert landfills, and gypsum and all types of mulch.

*Response #2:* This comment addresses MCAQD's future plans and was provided for information purposes only. It does not affect EPA's proposed action on the March 12, 2008 version of Rule 316, and no further response is necessary.

*Comment #3:* MCAQD comments that Table 1 in 74 FR 43085 incorrectly refers to 3/10/08 as the adoption date for the rule, and notes that the correct date is 3/12/08.

*Response #3:* We agree. There was a typographical error in the adoption date. We do not believe this error is likely to result in significant confusion since only one version of the rule was adopted in 2008, and the previous version was adopted in 2005.

*Comment #4:* ACLPI comments that in August 2009 it notified us of its intent to take legal action against EPA for failure to act on Rule 316. ACLPI supports the proposed approval and the increased stringency of Rule 316.