

amounts would otherwise have been payable to the participant in cash.

(c) *Maximum time period for welfare benefit plans.* With respect to an employee welfare benefit plan as defined in section 3(1) of ERISA, in no event shall the date determined pursuant to paragraph (a)(1) of this section occur later than 90 days from the date on which the participant contribution amounts are received by the employer (in the case of amounts that a participant or beneficiary pays to an employer) or the date on which such amounts would otherwise have been payable to the participant in cash (in the case of amounts withheld by an employer from a participant's wages).

\* \* \* \* \*

(f) *Examples.* The requirements of this section are illustrated by the following examples:

(1) Employer A sponsors a 401(k) plan. There are 30 participants in the 401(k) plan. A has one payroll period for its employees and uses an outside payroll processing service to pay employee wages and process deductions. A has established a system under which the payroll processing service provides payroll deduction information to A within 1 business day after the issuance of paychecks. A checks this information for accuracy within 5 business days and then forwards the withheld employee contributions to the plan. The amount of the total withheld employee contributions is deposited with the trust that is maintained under the plan on the 7th business day following the date on which the employees are paid. Under the safe harbor in paragraph (a)(2) of this section, when the participant contributions are deposited with the plan on the 7th business day following a pay date, the participant contributions are deemed to be contributed to the plan on the earliest date on which such contributions can reasonably be segregated from A's general assets.

(2) Employer B is a large national corporation which sponsors a 401(k) plan with 600 participants. B has several payroll centers and uses an outside payroll processing service to pay employee wages and process deductions. Each payroll center has a different pay period. Each center maintains separate accounts on its books for purposes of accounting for that center's payroll deductions and provides the outside payroll processor the data necessary to prepare employee paychecks and process deductions. The payroll processing service issues the employees' paychecks and deducts all payroll taxes and elective employee

deductions. The payroll processing service forwards the employee payroll deduction data to B on the date of issuance of paychecks. B checks this data for accuracy and transmits this data along with the employee 401(k) deferral funds to the plan's investment firm within 3 business days. The plan's investment firm deposits the employee 401(k) deferral funds into the plan on the day received from B. The assets of B's 401(k) plan would include the participant contributions no later than 3 business days after the issuance of paychecks.

(3) Employer C sponsors a self-insured contributory group health plan with 90 participants. Several former employees have elected, pursuant to the provisions of ERISA section 602, 29 U.S.C. 1162, to pay C for continuation of their coverage under the plan. These checks arrive at various times during the month and are deposited in the employer's general account at bank Z. Under paragraphs (a) and (c) of this section, the assets of the plan include the former employees' payments as soon after the checks have cleared the bank as C could reasonably be expected to segregate the payments from its general assets, but in no event later than 90 days after the date on which the former employees' participant contributions are received by C. If, however, C deposits the former employees' payments with the plan no later than the 7th business day following the day on which they are received by C, the former employees' participant contributions will be deemed to be contributed to the plan on the earliest date on which such contributions can reasonably be segregated from C's general assets.

\* \* \* \* \*

Signed at Washington, DC, this 7th day of January 2010.

**Phyllis C. Borzi,**

*Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

[FR Doc. 2010-430 Filed 1-13-10; 8:45 am]

**BILLING CODE 4510-29-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-1073]

RIN 1625-AA00

#### **Safety Zone; Todd Pacific Shipyards Vessel Launch, West Duwamish Waterway, Seattle, WA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the West Duwamish Waterway, Seattle, Washington. Entry into, transit through, mooring or anchoring within this zone is prohibited unless authorized by the Captain of the Port Puget Sound or her Designated Representative. This safety zone is necessary to ensure the safety of recreational and commercial traffic in the area during a vessel launch operation at Todd Pacific Shipyards, located at the entrance to the West Duwamish Waterway.

**DATES:** This rule is effective from 1 a.m. to 10:30 a.m. on January 16, 2010 unless cancelled sooner by the Captain of the Port.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-1073 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-1073 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 ENS Rebecca E. McCann, Waterways Management Division, Sector Seattle, Coast Guard; telephone 206-217-6088, e-mail [Rebecca.E.McCann@uscg.mil](mailto:Rebecca.E.McCann@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 publishing a NPRM would be contrary to the public interest since immediate action is necessary to ensure the safety of commercial and recreational vessels in the vicinity of the launch on the date and times this rule will be in effect.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to public interest because hazards associated with a vessel launching operation in a restricted waterway, such as excessive vessel congestion, could lead to injury, fatalities, and/or destruction of public property. Therefore, immediate action is needed to ensure the public’s safety from the hazards noted above.

### Background and Purpose

The Coast Guard is establishing a temporary safety zone to provide for the safety of recreational and commercial vessel traffic during a vessel launch operation at the Todd Pacific Shipyards Facility. The area that Todd Pacific Shipyards Facility will use encompasses a high commercial traffic zone and the West Duwamish River mouth. The Coast Guard is establishing this zone to protect vessels and persons from the hazards associated with excessive vessel congestions within this restricted waterway. The safety zone is needed to keep vessels out of the affected area during the launch period.

### Discussion of Rule

The Coast Guard is establishing a temporary safety zone to encompass the waters of the Duwamish River extending 450 yards from the vessel launch site at Todd Pacific Shipyard, located at the entrance to the West Duwamish Waterway. The safety zone includes all waters within an area encompassed by the points 47°35′04″ N 122°21′30″ W, thence to 47°35′04″ N 122°21′50″ W, thence to 47°35′19″ N 122°21′50″ W, thence to 47°35′19″ N 122°21′30″ W, thence to 47°35′04″ N 122°21′30″ W. The safety zone does not extend on land. The temporary safety zone will be enforced from 1 a.m. to 10:30 a.m. on January 16, 2010 unless cancelled sooner by the Captain of the Port.

The Coast Guard, through this action, intends to promote the safety of personnel and vessels in the area. Entry into this zone by all vessels will be prohibited unless authorized by the Captain of the Port. This safety zone will be enforced by the U.S. Coast Guard. The Captain of the Port may be assisted in the enforcement of this safety zone by other Federal, state, or local agencies.

### 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.

We expect the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation is unnecessary. This expectation is based on the fact that the regulated area established by the regulation would encompass a small area that should not significantly impact commercial or recreational traffic. 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 transit the waters of the Duwamish River extending 450 yards from the vessel launch site at Todd Pacific Shipyard, located at the entrance to the West Duwamish Waterway from 1 a.m. to 10:30 a.m. on

January 16, 2010. This safety zone will not have a significant impact due to the short duration and small 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 the establishment of a temporary safety zone to allow a vessel launch evolution at Todd Pacific Shipyards, the duration of which will be less than one day. 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 set out 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.T13-127 to read as follows:

#### § 165.T13-127 Safety Zone; Todd Pacific Shipyards Vessel Launch, West Duwamish Waterway, Seattle, WA.

(a) *Location.* The following area is a safety zone: The waters of the Duwamish River extending 450 yards from the vessel launch site at Todd Pacific Shipyard, located at the entrance to the West Duwamish Waterway, with an area encompassed by the points 47°35'04" N 122°21'30" W, thence to 47°35'04" N 122°21'50" W, thence to 47°35'19" N 122°21'50" W, thence to

47°35'19" N 122°21'30" W, thence to 47°35'04" N 122°21'30" W.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel may enter, transit, moor, or anchor within this safety zone, except for vessels authorized by the Captain of the Port or her Designated Representative.

(c) *Enforcement Period.* From 1 a.m. to 10:30 a.m. on January 16, 2010 unless cancelled sooner by the Captain of the Port.

Dated: December 11, 2009.

**S.E. Englebert,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 2010-550 Filed 1-13-10; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2009-0492; FRL-9096-9]

### Revisions to the California State Implementation Plan, San Joaquin Valley Air Pollution Control District

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing a limited approval and limited disapproval of revisions to the San Joaquin Valley Air Pollution Control District (SJVAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on July 14, 2009 and concerns volatile organic compounds (VOCs) from confined animal facilities, such as dairies, cattle feedlots, and poultry and swine houses. Under the authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates these emission sources and directs California to correct rule deficiencies.

**DATES:** *Effective Date:* This rule is effective on February 16, 2010.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2009-0492 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