

4. Amend § 2520.104b-30 to revise paragraph (a) to read as follows:

**§ 2520.104b-30 Charges for documents.**

(a) *Application.* The plan administrator of an employee benefit plan may impose a reasonable charge to cover the cost of furnishing to participants and beneficiaries upon their written request as required under section 104(b)(4) of the Act, copies of the following information, statements or documents: The latest updated summary plan description, and the latest annual report, any terminal report, the bargaining agreement, trust agreement, contract, or other instruments under which the plan is established or operated. Except where explicitly permitted under the Act, no charge may be assessed for furnishing information, statements or documents as required by other provisions of the Act, which include, in part 1 of title I, sections 104(b)(1), (2), (3) and (c) and 105(a) and (c).

\* \* \* \* \*

Signed at Washington, DC, this 7th day of September, 2007.

**Bradford P. Campbell,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. CGD05-07-088]

RIN 1625-AA00

#### **Safety Zone: Holiday Flotilla Fireworks Display, Motts Channel/Banks Channel, Wrightsville Beach, NC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes the establishment of a 1000 foot safety zone around a fireworks display for the North Carolina Holiday Flotilla occurring on November 24, 2007, in the vicinity of Motts Channel/Banks Channel and Wrightsville Beach, NC. This action is intended to restrict vessel traffic on Motts Channel. This safety zone is necessary to protect mariners from the hazards associated with fireworks displays.

**DATES:** Comments and related material must reach the Coast Guard on or before October 10, 2007.

**ADDRESSES:** You may mail comments and related material to Commander, Sector North Carolina, 2301 East Fort Macon Road, Atlantic Beach, NC 28512. Sector North Carolina maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Federal Building Fifth Coast Guard District between 9 a.m. and 2 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:**

MSTC Todd C. Mann, Marine Environmental Response Branch, Coast Guard Marine Safety Unit, Wilmington, North Carolina at (910) 772-2216.

**SUPPLEMENTARY INFORMATION:**

#### **Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD05-07-088, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

#### **Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, Sector North Carolina at the address under **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**.

#### **Background and Purpose**

On November 24, 2007, the North Carolina Holiday Flotilla fireworks display will be held adjacent to Motts Channel/Banks Channel, Wrightsville Beach, NC. Spectators will be observing from both the shore and from vessels. Due to the need of protection of mariners and spectators from the hazards associated with the fireworks display, vessel traffic will be temporarily restricted.

#### **Discussion of Proposed Rule**

The Coast Guard is establishing a safety zone on specified waters of Motts Channel. The regulated area will consist of a 1000 foot safety zone around Bird Island position 34-12-42N 077-48-26W south of the Seapath Yacht Club, Wrightsville Beach, NC. The safety zone will be enforced from 6 p.m. to 8 p.m. on November 24, 2007. General navigation in the safety zone will be restricted during the event. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

#### **Regulatory Evaluation**

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation restricts access to the regulated area, the effect of this rule will not be significant because: (i) The COTP may authorize access to the safety zone; (ii) the safety zone will be in effect for a limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 proposed rule would 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 and operators of vessels intending to transit or anchor in that portion of Motts Channel/Banks Channel from 6 p.m. to 8 p.m. on November 24, 2007. The safety zone

will not have a significant impact on a substantial number of small entities, because the zone will only be in place for a few hours and maritime advisories will be issued, so the mariners can adjust their plans accordingly. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining 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 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact MSTC Todd C. Mann, Marine Environmental Response Branch, Coast Guard Marine Safety Unit Wilmington, North Carolina at (910) 772–2216.

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 proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### **Indian Tribal Governments**

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### **Environment**

We have analyzed this proposed rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide 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 that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make a final decision on whether to categorically exclude this rule from further environmental review.

#### **List of Subjects in 33 CFR Part 165**

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 subpart C 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, 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 temporary § 165.T05–088, to read as follows:

**§ 165.T05–088 Safety Zone: Motts Channel/Banks Channel, Wrightsville Beach, North Carolina.**

(a) *Location.* The following area is a safety zone: All waters of Motts

Channel/Banks Channel within 1000 feet of Bird Island at Wrightsville Beach, NC, approximate position 34–12–42N 077–48–26W in the Captain of the Port Sector North Carolina zone as defined in 33 CFR 3.25–20.

(b) *Definition: Captain of the Port:* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Sector North Carolina to act on his behalf.

(c) *Regulation:* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Sector North Carolina, or designated representative.

(2) The operator of any vessel 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 U.S. Coast Guard Ensign.

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

(3) The Captain of the Port, Sector North Carolina can be contacted at telephone number (252) 247–4570 or (252) 247–4571.

(4) Coast Guard vessels enforcing the safety zone can be contacted on VHF–FM marine band radio, channel 13 (156.65 MHz) and channel 16 (156.8 MHz).

(d) *Enforcement period:* This regulation will be enforced from 6 p.m. to 8 p.m. on November 24, 2007.

Dated: September 4, 2007.

**William D. Lee,**

*Captain, U.S. Coast Guard, Sector North Carolina.*

[FR Doc. E7–18138 Filed 9–13–07; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Parts 229, 232, and 238

[Docket No. FRA–2006–26175, Notice No. 2]

RIN 2130–AB84

### Electronically Controlled Pneumatic Brake Systems

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of public hearings and technical conference.

**SUMMARY:** By notice of proposed rulemaking (NPRM) published on September 4, 2007 (71 FR 50820), FRA proposed revisions to the regulations governing the power braking systems and equipment used in freight and other non-passenger railroad train operations. The proposed revisions are intended to permit and promote the implementation of electronically controlled pneumatic (ECP) brake systems in a safe and effective manner. In that proposed rule, FRA stated that it would hold an oral public hearing on a date to be announced in a forthcoming notice, at which the Administrator or his delegated representative may preside. This document announces public hearings and a technical roundtable discussion.

**DATES:** (1) *Public Hearings:* Two public hearings will be held on the dates and at the locations listed below to provide interested parties the opportunity to comment on the proposed revisions contained in the NPRM. A technical roundtable will be held in conjunction with the second hearing. The dates of the public hearings are as follows: Thursday, October 4, 2007, at 9:30 a.m. in Washington, DC. Friday, October 19, 2007, at 8:30 a.m. in the Chicago, Illinois area.

(2) *Technical Roundtable:* A technical roundtable will be held on Friday, October 19, 2007, directly following the public hearing scheduled for that day. The technical roundtable is intended to provide interested parties the opportunity to comment on the proposed revisions contained in the NPRM and to provide interested parties the ability to specifically discuss various technical issues related to the implementation and operation of ECP brake systems.

**ADDRESSES:** (1) *Public Hearings:* Hearings to provide interested parties the opportunity to comment on the proposed revisions contained in the NPRM will be held at these locations: *Washington, DC:* Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005. *Chicago, IL area:* Crowne Plaza Chicago O'Hare, 5440 North River Road, Rosemont, IL 60018.

(2) *Technical Roundtable:* A technical conference will be conducted in the Chicago, Illinois at: Crowne Plaza Chicago O'Hare, 5440 North River Road, Rosemont, IL 60018. See **SUPPLEMENTARY INFORMATION** section for details.

(3) *Docket Clerk:* Written notification should identify the docket number and must be submitted to the FRA Docket Clerk, Office of Chief Counsel, Federal

Railroad Administration, 1120 Vermont Avenue, NW., RCC–10, Stop 10, Washington, DC 20590 or faxed to (202) 493–6068.

#### FOR FURTHER INFORMATION, CONTACT:

James Wilson, Office of Safety Assurance and Compliance, Motive Power and Equipment Division, RRS–14, Mail Stop 25, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202–493–6259); or Jason Schlosberg, Trial Attorney, Office of Chief Counsel, Mail Stop 10, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202–493–6032).

**SUPPLEMENTARY INFORMATION:** Interested parties are invited to present oral statements and proffer evidence at the hearings. The hearings will be informal and will be conducted by a representative designated by FRA in accordance with FRA's Rules of Practice (49 CFR 211.25). The hearings will be non-adversarial proceedings; therefore, there will be no cross examination of persons presenting statements or proffering evidence. An FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which the initial statements were made. Additional procedures, as necessary for the conduct of the hearing, will be announced at the hearing.

The purpose of the hearings is to receive oral comments regarding the specific provisions contained in the proposed rule and to receive evidence and to develop findings to determine whether FRA should invoke its discretionary authority under 49 U.S.C. 20306 to exempt application of section 20303 as it applies to freight trains and freight cars operating with ECP brake systems. Section 20303 requires operators to transport rail vehicles with defective or insecure equipment “from the place at which the defect or insecurity was first discovered to the nearest available place at which the repairs can be made” to avoid incurring civil penalties related to such movement. FRA would be authorized to grant relief from section 20303 only if it were to make findings required by section 20306. That section is reproduced here for ready reference: Section 20306. Exemption for Technological Improvements

(a) General.—Subject to subsection (b) of this section, the Secretary of Transportation may exempt from the requirements of this chapter railroad equipment or equipment