

shall be at temperature equilibrium before exhaust-gas samples are collected or other test data are observed. At all test conditions the intake mixture shall contain 1.5±0.1 percent, by volume, of Pittsburgh natural gas (see footnote 3) in the air. Test observations shall include the rate of fuel consumption, pressures, temperatures, and other data significant in the safe operation of diesel equipment.

(b) Exhaust-gas samples shall be analyzed for carbon dioxide, oxygen, carbon monoxide, hydrogen, methane, nitrogen, oxides of nitrogen, and aldehydes, or any other constituent prescribed by MSHA.

(c) The intake and exhaust systems shall be complete with all component equipment such as air cleaners, flame arresters, and exhaust cooling systems.

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BILLING CODE 1505-01-D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05-03-040]

RIN 1625-AA00

Safety Zone; Chesapeake Bay, Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Kiwanis Beach Club fireworks display to be held at the Ocean View Beach Park, 162 West Ocean View Avenue, Norfolk, Virginia. This action is intended to restrict vessel traffic on the Chesapeake Bay, within a 560-foot radius of a fireworks display. The fireworks will be launched from shore. The safety zone is necessary to protect mariners and spectators from the hazards associated with the fireworks display.

DATES: This rule is effective from 8 p.m. on May 9, 2003, until 11:59 p.m. on May 10, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05-03-040 and are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Suite 700, Norfolk, Virginia, 23510, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Jay Davis, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 668-5590.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The event will take place between 8 p.m. and 11:59 p.m. and is expected to attract a large number of spectator craft near the event area. Due to the dangers posed by the fireworks display, it is in the public interest to have these regulations in effect during the event.

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**. Spectators will be observing from both the shore and from vessels. Because of the hazards associated with the fireworks display, a limited access area is necessary to provide for the safety of spectators.

Background and Purpose

On May 9, 2003, the Kiwanis Beach Club fireworks display will be held at the Ocean View Beach Park, Norfolk, Virginia. Spectators will be observing from both the shore and from vessels. Due to the need for protection of mariners and spectators from the hazards associated with the fireworks display, vessel traffic will be temporarily restricted.

Discussion of Rule

The Coast Guard is establishing a safety zone on specified waters of the Chesapeake Bay. The regulated area will consist of a 560-foot radius zone extending around the fireworks launch point on the Ocean View Beach Park shoreline, approximately one half mile East of Harrison's Fishing Pier. The temporary regulations will be enforced from 8 p.m. to 11:59 p.m. eastern time May 9, 2003. In the event of rain canceling the fireworks on May 9, 2003, the temporary regulations will be enforced from 8 p.m. until 11:59 p.m. on May 10, 2003. 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 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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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 rule would have a significant economic impact on a substantial number of small entities. The term "small entities" include 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. section 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 and operators of vessels intending to transit or anchor in that portion of the Chesapeake Bay from 8 p.m. to 11:59 p.m. on May 9, 2003, or May 10, 2003 if the rain date becomes necessary.

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. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions

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 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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)(g), of the Instruction, from further environmental documentation. This regulation has a duration of less than one week.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, 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. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. From 8 p.m. on May 9, 2003 through 11:59 on May 10, 2003, add temporary § 165.T05-040, to read as follows:

§ 165.T05-040 Safety Zone; Chesapeake Bay, Norfolk, VA.

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

Chesapeake Bay within 560 feet of the Ocean View Beach Park shoreline, approximately one half mile East of Harrison's Fishing Pier.

(b) *Definition.* *Designated representative* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf. The Captain of the Port, Hampton Roads, and his designated representatives can be contacted at telephone Number (757) 668-5555 or (757) 484-8192. The Coast Guard vessels enforcing the safety zone can be contacted on VHF-FM channels 13 and 16.

(c) Regulations.

(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, Hampton Roads, Virginia, or his designated representatives.

(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.

Enforcement Period

(d) *Enforcement period.* This section will be enforced from 8 p.m. through 11:59 p.m. on May 9, 2003. In the event the May 9, 2003 fireworks are cancelled, this section will be enforced from 8 p.m. through 11:59 p.m. on May 10, 2003.

Dated: April 25, 2003.

Lawrence M. Brooks,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13-03-014]

RIN 1625-AA00

Safety Zone; Dragon Boat Race, Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the waters