

Approved: October 15, 2018.

A.S. Janin,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

Dated: October 15, 2018.

Meredith Steingold Werner,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2018-0869]

RIN 1625-AA08

Special Local Regulation; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for navigable waters of the San Diego Bay offshore of Harbor Island bound landward of a line by the following coordinates starting west at 32°43.033' N and 117°12.792' W and proceeding east to 32°43.166' N and 117°12.266' W, proceeding east to 32°43.166' N and 117°11.633' W, and ending at 32°43.100' N and 117°11.300' W. This special local regulation is necessary to provide for the safety of life on navigable waters during the event. This action will restrict vessel traffic in these waters of the San Diego Bay, from 10:00 a.m. to 6:00 p.m. on October 17, 2018 through October 21, 2018.

DATES: This rule is effective without actual notice from October 18, 2018 until October 21, 2018. For the purposes of enforcement from 10 a.m. to 6 p.m. daily, actual notice will be used from 10 a.m. on October 17, 2018 until October 18, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0869 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Briana Biagas, Waterways Management, U.S. Coast Guard Sector San Diego, Coast

Guard; telephone 619-278-7656, email D11MarineEventsSD@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 doing so would be impracticable. Due to the timing of the event, we are unable to issue a NPRM before the event is scheduled.

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**. This rule is necessary for the safety of life during the event on these navigable waters. For the reasons above, including the timing of the event, it would be impracticable to delay this rule to provide a full 30 days' notice.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233, which authorizes the Coast Guard to establish and define special local regulations. The COTP San Diego is establishing a special local regulation for the waters of the San Diego Bay bound landward of a line by coordinates starting west at 32°43.033' N and 117°12.792' W and proceeding east to 32°43.166' N and 117°12.266' W, proceeding east to 32°43.166' N and 117°11.633' W, and ending at 32°43.100' N and 117°11.300' W. The purpose of this rule is to ensure safety of participants, vessels and the navigable waters in the regulated area before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a special local regulation from 10:00 a.m. to 6:00 p.m. on October 17, 2018 through October 21,

2018. The special local regulation will cover all navigable waters of the San Diego Bay bound landward of a line by coordinates starting west at 32°43.033' N and 117°12.792' W and proceeding east to 32°43.166' N and 117°12.266' W, proceeding east to 32°43.166' N and 117°11.633' W, and ending at 32°43.100' N and 117°11.300' W. The purpose of this rule is to ensure safety of participants, vessels and the navigable waters in the regulated area before, during, and after the scheduled event. Persons and vessels will be prohibited from anchoring, blocking, loitering, or impeding within this regulated waterway unless authorized by the COTP, or his designated representative, during the specified dates and times. Additionally, movement of all vessels within the regulated area and entry of all vessels into the regulated area will be restricted. The Coast Guard will publish information on the event in the weekly LNM.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance, it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on size, location, duration, and time-of-day of the special local regulation. The Coast Guard will publish a LNM that details the vessel restrictions of the regulated area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 or anchor in the impacted portion of the San Diego Bay bound landward of a line by coordinates starting west at 32°43.033' N and 117°12.792' W and proceeding east to 32°43.166' N and 117°12.266' W, proceeding east to 32°43.166' N and 117°11.633' W, and ending at 32°43.100' N and 117°11.300' W from 10:00 a.m. to 6:00 p.m. on October 17, 2018 through October 21, 2018.

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 rule. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and

have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. 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 (adjusted for inflation) 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishment of marine event special local regulations on a portion of the navigable waters of the San Diego Bay. It is categorically excluded from further review under paragraph L61 and L63(b) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places or vessels.

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; 33 CFR 1.05–1.

■ 2. Add § 100.35T11–0869 to read as follows:

§ 100.35T11–0869 Special Local Regulation for Marine Event; San Diego Bay, San Diego, CA.

(a) *Regulated area.* The following location is a regulated area: All navigable waters of San Diego Bay bound landward of a line by coordinates starting west at 32°43.033' N and 117°12.792' W and proceeding east to 32°43.166' N and 117°12.266' W, proceeding east to 32°43.166' N and 117°11.633' W, and ending at 32°43.100' N and 117°11.300' W.

(b) *Definitions.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port San Diego in the enforcement of the regulated areas.

(c) *Special local regulations.* (1) Persons and vessels will be prohibited from anchoring, blocking, loitering, or impeding within this regulated waterway unless authorized by the COTP, or his designated representative, during the dates and times listed in paragraph (d) of this section.

(2) Movement of all vessels within the regulated area and entry of all vessels into the regulated area will be restricted.

(3) To seek permission to enter the regulated area, contact the Captain of the Port (COTP) San Diego or the COTP's designated representative.

(4) The Coast Guard will publish a notice in the Eleventh Coast Guard District Local Notice to Mariners and issue a Safety Marine Information Broadcast of VHF–FM marine band radio announcing specific event location, dates and times.

(d) *Enforcement period(s).* Daily from 10:00 a.m. to 6:00 p.m. on October 17, 2018 through October 21, 2018.

Dated: October 2, 2018.

J.R. Buzzella,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV106-6044; FRL-9983-55-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the West Virginia state implementation plan (SIP). The regulations affected by this update have been previously submitted by the West Virginia Department of Environmental Protection (WV DEP) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective October 18, 2018.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html>. EPA requests that you email the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Erin Trouba, (215) 814-2023 or by email at trouba.erin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such

elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the federally-approved SIP and are identified in part 52 "Approval and Promulgation of Implementation Plans," title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is "incorporated by reference." This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which a state revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document. On February 10, 2005 (70 FR 7024), EPA published a **Federal Register** beginning the new IBR procedure for West Virginia. On February 28, 2007 (72 FR 8903), February 10, 2009 (74 FR 6542), December 28, 2010 (75 FR 81474), July 25, 2013 (78 FR 44884), and June 14, 2017 (82 FR 27118) EPA published updates to the IBR material for West Virginia. Since the publication of the last IBR update, EPA has approved into the SIP the following regulatory changes to the following West Virginia regulations:

A. Added Regulations

None.

B. Revised Regulations

1. 45 CSR 8 (Ambient Air Quality Standards)
2. 45 CSR 14 (Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration)

C. Removed Regulations

1. 45 CSR 39 (Control of Annual Nitrogen Oxide Emissions to Mitigate Interstate Transport of Fine Particulate Matter and Nitrogen Oxides)
2. 45 CSR 41 (Control of Annual Sulfur Dioxides Emissions)
3. In 52.2520 paragraph (d) Source Specific Requirements for West Virginia, there was a removal of source-specific SIP requirements for the following five facilities in West Virginia that had permanently shutdown: Mountaineer Carbon Company; Standard Lafarge; Follansbee Steel Corporation; International Mill Service, Inc.; and Columbian Chemicals Company.

II. EPA Action

In this action, EPA is announcing the update to the IBR material as of May 1, 2018 and revising the text within 40 CFR 52.2520(b). In addition, notice is provided of correcting **Federal Register** citations listed in the Table (c) paragraph of 40 CFR 52.2520, as described: A. Under the "EPA approval date" EPA is correcting numerous **Federal Register** citation locations to reflect the first page of the preamble opposed to the regulatory text page for West Virginia regulations 45 CSR Series 8 and 45 CSR Series 14.

III. Good Cause Exemption

EPA has determined that this rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by