

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 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 Commandant Instruction M16475.ID, 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)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a

regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2-1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

#### 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; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary §§ 100.35–T05–105 to read as follows:

#### § 100.35–T05–105 Choptank River, Cambridge, MD.

(a) *Regulated area.* The regulated area includes all waters of the Choptank River within 200 yards either side of a line drawn northwesterly from a point on the shoreline at latitude 38°33'45" N, 076°02'38" W, thence to latitude 38°35'06" N, 076°04'42" W, a position located at Great Marsh Park, Cambridge, MD. All coordinates reference Datum NAD 1983.

(b) *Definitions.*

(1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all persons participating in the Chesapeakeman Ultra Triathlon swim under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(c) *Special local regulations.*

(1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the swim course.

(d) *Enforcement period.* This section will be enforced from 6:30 a.m. to 10:30 a.m. on October 1, 2005.

Dated: September 21, 2005.

**S. Ratti,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD05-05-122]

RIN 1625-AA00

#### Safety Zone; Fireworks Display, Potomac River, Washington, DC.

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the waters of the Potomac River. This action is necessary to provide for the safety of life and property during a fireworks display on the Potomac River. The safety zone will allow for control of designated areas of the river and safeguard spectators and participants.

**DATES:** This rule is effective from 7:30 p.m. to 10 p.m. on October 1, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-05-122 and are available for inspection or copying at Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226-1791, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Houck, Coast Guard Sector Baltimore, at (410) 576-2674.

#### 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. Publishing an NPRM and delaying its effective date would be contrary to public interest, since there is not sufficient time to publish a proposed rule in advance of the event and immediate action is needed to protect persons and vessels against the hazards associated with a fireworks display from a barge, such as premature detonation or falling burning debris.

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 safety zone of short duration is needed to provide for the safety of persons and vessels on the Potomac River.

### Background and Purpose

On October 1, 2005, The Kennedy Center of Performing Arts in Washington, DC will sponsor an event entitled "Festival of China" that will include a fireworks display launched from two barges located on the Potomac River, approximately 1,000 feet upstream of the Theodore Roosevelt Memorial Bridge, in Washington, DC. A fleet of spectator vessels is anticipated for this event. Due to the need for vessel control during the fireworks display, vessel traffic will be restricted to provide for the safety of spectators and transiting vessels.

The purpose of this regulation is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to a fireworks display from a barge. This rule establishes a safety zone on the waters of the Potomac River in Washington, DC, approximately 1,000 feet upstream of the Theodore Roosevelt Memorial Bridge, within a radius of 200 yards around two fireworks barges which will be located at position latitude 38°53' 45.7" N, longitude 077°03' 31.6" W.

### Discussion of Rule

The Coast Guard is establishing a safety zone on specified waters of the Potomac River. The safety zone will be in effect from 7:30 p.m. to 10 p.m. on October 1, 2005. This safety zone will protect spectators and mariners transiting the area from the potential hazards associated with a fireworks display launched from a barge on the Potomac River. This rule limits access to the safety zone to those vessels authorized by the Captain of the Port Baltimore. Except for persons or vessels authorized by the Captain of the Port Baltimore, no person or vessel may enter or remain in the zone. The Captain of the Port will notify the maritime

community via marine broadcasts of the safety zone.

### 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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

### 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 or anchor in a portion of the Potomac River from 7:30 p.m. to 10 p.m. on October 1, 2005. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for two-and-a-half hours, commercial vessel traffic in this area is limited, vessels not constrained by their draft may proceed safely around the safety zone, and the Coast Guard will issue maritime advisories to users of the river before the effective period.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could 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).

### 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 Commandant Instruction M16475.ID, 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 rule establishes a safety zone.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be 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; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 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.T05-122 to read as follows:

#### § 165.T05-122 Safety zone; Fireworks Display, Potomac River, Washington, DC.

(a) Location. The following area is a safety zone: All waters of the Potomac River in Washington, DC, surface to bottom, within a radius of 200 yards around two fireworks barges which will be located approximately 1,000 feet upstream of the Theodore Roosevelt Memorial Bridge, at position latitude 38°53'45.7" N, longitude 077°03'31.6" W. All coordinates reference Datum NAD.

(b) Definition. The 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.

(c) Regulations. The general regulations governing safety zones, found in Sec. 165.23, apply to the safety zone described in paragraph (a) of this section.

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

(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 by marine band radio on VHF channel 16 (156.8 MHz).

(3) All Coast Guard vessels enforcing this safety zone can be contacted on

marine band radio VHF channel 16 (156.8 MHz).

(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.

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

(e) Effective period. This section is effective from 7:30 p.m. to 10 p.m. on October 1, 2005.

Dated: September 19, 2005.

**Jonathan C. Burton,**

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

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 271

[FRL-7977-4]

#### Montana: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Immediate final rule.

**SUMMARY:** Montana has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements for Final authorization and is authorizing the State's changes through this immediate Final action. EPA is publishing this rule to authorize the changes without a prior proposed rule because we believe this action is not controversial. Unless we get written comments opposing this authorization during the comment period, the decision to authorize Montana's changes to their hazardous waste program will take effect as provided below. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect. A separate document in the proposed rules section of this **Federal Register** will serve as the proposal to authorize the State's changes.