

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD09-01-034]

RIN 2115-AA97

Safety Zone; Cleveland Harbor, Cleveland, OH

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone encompassing the navigable waters adjacent to the Cleveland Port Authority, on Cleveland Harbor, Lake Erie. The Safety Zone is necessary to ensure the safety of spectator vessels during a fireworks display launched from a barge in Cleveland Harbor on July 4, 2001. Use of fireworks and related pyrotechnics require that spectator vessels are kept at a safe distance from firework launching and landing sites, and well away from any unexploded pyrotechnics falling into the water and land areas near the launching site.

DATES: This temporary final rule becomes effective at 9:30 p.m. (e.s.t.) July 4, 2001 and terminates at 10:30 p.m. (e.s.t.), July 4, 2001.

ADDRESSES: Comments and material received from the public are part of docket CGD09-01-034, and are available for inspection and copying at Coast Guard Marine Safety Office Cleveland, Ohio, 1055 East Ninth Street, Cleveland, Ohio, 44114, between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant John Natale, U.S. Coast Guard Marine Safety Office Cleveland, 1055 East Ninth Street, Cleveland, Ohio 44114. The telephone number is (216) 937-0111.

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, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard had insufficient advance notice to publish an NPRM. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to prevent possible

loss of life, injury, or damage to property.

Background and Purpose

On July 4, 2001, at approximately 10 p.m., a fireworks and pyrotechnic display will be launched from a barge in Cleveland Harbor, approximately 1500 feet north of Voinavich Park at coordinates 41°30'53" N, 081°42'00" W. These coordinates are based on the North American Datum of 1983 (NAD 83). Spectators are expected to view the display from various spots along the Lake Erie waterfront, and private and commercial spectator vessels are also expected in Cleveland Harbor. A Safety Zone will be in effect on July 4, 2001 from 9:30 p.m. until 10:30 p.m. The Safety Zone will include the navigable waters of Cleveland Harbor and Lake Erie beginning at coordinates 41°30'50" N, 081°41'33" W (the northwest corner of Burke Lakefront Airport); continuing northwest to coordinates 41°31'11" N, 081°41'55" W; then southwest to 41°30'48" N, 081°42'34" W; then southeast to 41°30'27" N, 081°42'13" W (the northwest corner of dock 28 at the Cleveland Port Authority).

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 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 exempted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040 February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard considered whether this rule will have a significant impact on a substantial number of small businesses and not-for-profit organizations that are not dominant in their respective fields, and governmental jurisdictions with populations less than 50,000. This Safety Zone will not have a significant economic impact on a substantial number of small entities for the following reason: this rule will be in effect for approximately one hour. Before the effective period, we will issue maritime advisories widely available to users of the waterway.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effectiveness and participate in the rulemaking process. If your small business or organization is affected by this rule, and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble.

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the federal government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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 concern 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. A rule with tribal implications has 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. 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

The Coast Guard has considered the environmental impact of this regulation and concluded that, under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

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. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09-948 is added to read as follows:

§ 165.T09-948 Safety Zone: Lake Erie, Cleveland Harbor, Ohio.

(a) *Location.* The safety zone will include the navigable waters of Cleveland Harbor and Lake Erie beginning at coordinates 41°30'50" N, 081°41'33" W (the northwest corner of

Burke Lakefront Airport); continuing northwest to coordinates 41°31'11" N, 081°41'55" W; thence southwest to 41°30'48" N, 081°42'34" W; then southeast to 41°30'27" N, 081°42'13" W (the northwest corner of dock 28 at the Cleveland Port Authority). (NAD 83)

(b) *Effective dates.* This section is effective from 9:30 p.m. until 10:30 p.m. on July 4, 2001.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Cleveland or his representative on the Coast Guard vessel on scene. The Coast Guard Patrol Commander may be contacted on VHF Channel 16.

Dated: June 2, 2001.

R.J. Perry,

Commander, U.S. Coast Guard, Captain of the Port, Cleveland, Ohio.

[FR Doc. 01-16184 Filed 6-26-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO-001-0063a; FRL-7000-7]

Determination of Attainment for the Carbon Monoxide National Ambient Air Quality Standard for Metropolitan Denver; State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action makes a determination of attainment for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS) for the metropolitan Denver CO nonattainment area which was classified as "serious". The Denver area was required by the Clean Air Act Amendments (CAAA) of 1990 to attain the CO NAAQS by December 31, 2000. This determination is based on complete, quality assured ambient air quality monitoring data for the years 1998, 1999, and 2000.

DATES: This direct final rule is effective on August 27, 2001 without further notice, unless EPA receives adverse comments by July 27, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air

and Radiation Program, Mailcode 8P-AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202-2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices: United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202-2466; and, United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P-AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202-2466 Telephone number: (303) 312-6479.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" are used we mean the Environmental Protection Agency.

I. What is the Purpose of This Action?

In this action, we are determining that the metropolitan Denver (hereafter Denver) CO nonattainment area, as described in 40 CFR 81.306, has attained the 8-hour CO NAAQS based on quality assured ambient air monitoring data for the years 1998, 1999, and 2000. This action is being taken as required by section 179 (c)(1) of the Clean Air Act (CAA) and is consistent with the requirements of section 186(b)(2) of the CAA for CO nonattainment areas. This determination of attainment does not redesignate the Denver area to attainment for the CO NAAQS. The CAA requires that for an area to be redesignated to attainment the five criteria in section 107(d)(3)(E) must first be satisfied and EPA must fully approve a maintenance plan for the area.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q). Under section 107(d)(1)(C) of the Clean Air Act (CAA), we designated the Denver area as nonattainment for CO because the area had been designated as nonattainment before November 15, 1990. We originally designated Denver as nonattainment for CO under the provisions of the 1977 CAA Amendments (see 43 FR 8962, March 3, 1978). This designation was reaffirmed