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.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Indian Tribal Governments

This temporary final 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 tribe, 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 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.

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

2. A new temporary § 165.T09–945 is added to read as follows:

§ 165.T09–945 Safety Zone; Rochester Harborfest Fireworks Display, Genesee River, Rochester, New York.

(a) *Location.* The following area is a temporary safety zone: all waters of Rochester Harbor and the Genesee River encompassed by an area 300-yards around the fireworks barge moored/anchored in approximate position: 43°15.8′ N 077°36.0′ W. These coordinates are based on North American Datum 1983 (NAD 83).

(b) *Effective time and date.* This section is effective from 9 p.m. through 11 p.m. (EST) on August 11, 2001.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port Buffalo or the designated on scene patrol personnel. Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or the designated Patrol Commander. Coast Guard patrol personnel include commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed. The Captain of the Port Buffalo or the designated Patrol Commander may be contacted via VHF Channel 16.

Dated: June 21, 2001.

S.D. Hardy,

Commander, U.S. Coast Guard Captain of the Port Buffalo.

[FR Doc. 01–18107 Filed 7–18–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–010]

RIN 2115–AA97

Safety Zone; Niagara River, Tonawanda, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone. The safety zone encompasses the navigable waters on the Niagara River in Tonawanda, New York. The action is necessary to protect participants and non-participants within the immediate area from the hazards associated with fireworks displays.

DATES: This rule is effective from 9:30 p.m. until 10:30 p.m. on July 22, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–010] and are available for inspection of copying at U.S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd, Buffalo, NY 14203, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant David Flaherty, U. S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd, Buffalo, NY. The telephone number is (716) 843–9574.

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 followed by a temporary final rule that would be effective before the necessary date. 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. The Coast Guard has not received any complaints or negative comments with regard to this event.

Background and Purpose

A temporary safety zone is required to ensure safety of vessels and participants. Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Buffalo or the designated Patrol Commander. The designated Patrol Commander on scene may be contacted on Marine VHF Channel 16.

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. It has not been reviewed by the Office of Management and Budget 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 10e 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 government jurisdictions with populations less than 50,000. For the same reasons set forth in the above regulatory evaluations, the Coast Guard certifies under section 605 (b) of the Regulatory Flexibility Act (5 U.S.C.601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

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.*).

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. This event is being conducted in concurrence with local authorities.

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 having first provided the funds to pay those costs. This temporary final rule would not impose an unfunded mandate.

Taking of Private Property

This temporary final 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 temporary final 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 temporary final 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, 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 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 considered the environmental impact of this regulation and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, it is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying 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 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.T09–940 is added to read as follows:

§ 165.T09–940 Safety Zone: Niagara River, Tonawanda, NY.

(a) *Location*. The following area is a temporary safety zone: The waters of the Niagara River within 300 yards of a fireworks barge moored/anchored with its center in approximate position 43 01′ 52″ N, 078 53′ 16″ W. All coordinates in this section reference 1983 North American Datum (NAD83).

(b) *Effective time and date*. This regulation is effective from 9:30 p.m. until 10:30 p.m. (local) July 22, 2001.

(c) *Regulations*. In accordance with the general regulations in § 165.23 of this part, entry into this zone is

prohibited unless authorized by the Coast Guard Captain of the Port Buffalo, or the designated Patrol Commander.

Dated: June 21, 2001.

S.D. Hardy,

Commander, U.S. Coast Guard Captain of the Port Buffalo, NY.

[FR Doc. 01–18106 Filed 7–18–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 217–0285; FRL–6995–7]

Final Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on September 28, 2000. This limited approval and limited disapproval action will incorporate Rules 2020 and 2201 of San Joaquin Valley Unified Air Pollution District (District) into the federally approved SIP.

The intended effect of finalizing this limited approval is to strengthen the federally approved SIP by incorporating these rules and by satisfying Federal requirements for an approvable nonattainment area New Source Review (NSR) SIP for the District. While strengthening the SIP, however, this SIP revision contains deficiencies which the District must correct before EPA can grant full approval under section 110(k)(3). Thus, EPA is finalizing simultaneous limited approval and limited disapproval as a revision to the California SIP under provisions of the Act regarding EPA action on SIP submittals, and general rulemaking authority.

DATES: This action is effective on August 20, 2001.

ADDRESSES: Copies of the state submittal and other supporting information used in developing the final action are available for public inspection (Docket Numbers NSRR 00–13–CA and NSRR 00–16–CA) at EPA's Region IX office during normal business hours. Copies of the District Rules and submittal are also available at the following locations: San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg Avenue, Fresno, California 93726. California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Ed Pike, Permits Office, (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901; by telephone at (415) 744–1211; or by email at Pike.Ed@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean EPA.

Table of Contents

I. What Action Is EPA Finalizing?
II. Background
III. Public Comments and EPA Response
IV. EPA Final Action and Required Corrections to District Rules 2020 and 2201
V. Administrative Requirements

I. What Action Is EPA Finalizing?

EPA is finalizing a limited approval and limited disapproval of revisions to the California SIP for District Rules 2020 and 2201. This final action replaces previous New Source Review and Permit Exemption Rules in the following SIPs: Fresno County, a portion of Kern County, [1] Kings County, Madera County, Merced County, San Joaquin County, Stanislaus County, and Tulare County. Please see the Technical Support Document for a complete list of the Rules that will be replaced.

Rule 2020 was adopted by the San Joaquin Valley Unified Air Pollution Control District on September 17, 1998, and submitted to EPA by the California Air Resources Board (CARB) on October 27, 1998. Rule 2201 was adopted by the District on August 20, 1998 and submitted to EPA by CARB on September 29, 1998. This proposed limited approval and limited disapproval does not include sections 5.9 and 6.0 of Rule 2201, which specify requirements for sources that request permit modifications that also meet title V requirements. The title V requirements in Rule 2201 (based on a prior version of Rule 2201) were given interim approval as part of the District's title V operating permits program in EPA's April 24, 1996 rulemaking on that program (see 60 FR 55517 and 61 FR 18083). The District has not submitted any substantive changes to the title V sections of Rule 2201 since that approval.

[1] See the Technical Support Document and 64 FR 51493 for more background information on the District and its jurisdiction.

II. Background

The background of this action is more lengthy than our usual consideration of SIP rules. Initially, on September 23, 1999, EPA proposed to grant full approval of Rules 2201 and 2020 and requested public comment (64 FR 51493). On October 25, 1999, EPA received a comment (as explained in the ''Response to Comments'' section below) from the California Unions for Reliable Energy (''CURE'') contending that full approval of a provision of Rule 2201 would be inconsistent with federal law. After we evaluated the comment, we determined that finalizing full approval of Rule 2201 would be inappropriate, but we also determined that full disapproval would be inappropriate because Rules 2201 and 2020 overall will strengthen the SIP.

EPA, instead, proposed on September 28, 2000, to grant Rules 2201 and 2020 limited approval and limited disapproval (65 FR 58252). In our September 28, 2000, proposal, EPA stated that we would respond to the comments submitted on both proposals (i.e. the proposal to grant full approval in September 1999 and subsequent proposal to grant limited approval and limited disapproval in September 2000) when taking final action. In that proposed limited approval and limited disapproval, EPA concluded that including Rules 2020 and 2201 would generally strengthen the SIP. However, EPA also identified the following deficiencies in District Rules 2020 and 2201 preventing full approval. (See the September 28, 2000, proposal at 65 FR 58252 for an additional description of the necessary corrections to these two rules).

1. The District must remove the agricultural exemption from District Rule 2020.

2. The District must revise Rule 2201 to provide a mandatory and enforceable remedy to cure any annual shortfall and, in the future, prevent shortfalls in the District's New Source Review Offset Equivalency Tracking System.

3. The District must revise Rule 2201 to ensure that all sources meet the Lowest Achievable Emission Rate (LAER) [2] if they are allowed to make a significant increase in their actual emission rate.

[2] Please note that many California Districts use the term ''Best Available Control Technology'' with a definition equivalent to LAER—please see the TSD for additional information on the District's definition of BACT.