

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 considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are specifically excluded from further analysis and documentation under that section. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

#### 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; 49 CFR 1.46.

2. From 10:30 a.m. to 4:30 p.m. (local time) on August 16, 2002, add temporary section, § 100.35-T05-052 to read as follows:

#### § 100.35-T05-052 Atlantic Ocean, Point Pleasant Beach to Bay Head, New Jersey

(a) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Atlantic City.

(b) *Regulated area.* The regulated area is defined as all waters of the Manasquan River from the New York and Long Branch Railroad to Manasquan Inlet, together with all waters of the Atlantic Ocean bounded by a line drawn from the end of the South Manasquan Inlet Jetty, easterly to Manasquan Inlet Lighted Buoy "2M", then southerly to a position at latitude 40° 04' 26"N, longitude 074° 01' 30"W, then westerly to the shoreline. All coordinates reference Datum NAD 1983.

(c) *Special local regulations* (1) The regulated area shall be closed intermittently to general navigation during the effective period. No person or vessel may enter or remain in the

regulated area while it is closed unless participating in the event or authorized by the sponsor or regatta patrol personnel. Notice of the closure times will be given via Marine Safety Radio Broadcast on VHF-FM marine band radio, Channel 22 (157.1 MHz).

(2) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators.

(3) The spectator fleet shall be held in a spectator anchorage area north of the regulated area, which shall be marked by patrol vessels flying pennants to aid in their identification.

(4) No vessel shall proceed at a speed greater than six (6) knots while in Manasquan Inlet during the effective period.

(5) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. The operator of a vessel in the regulated area shall stop the vessel immediately when instructed to do so by U.S. Coast Guard patrol personnel and then proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard.

(d) *Effective period.* This section is effective from 10:30 a.m. to 4:30 p.m. (local time) on August 16, 2002.

Dated: August 6, 2002.

**James D. Hull,**

*Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 02-20754 Filed 8-14-02; 8:45 am]

**BILLING CODE 4910-15-P**

#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[CGD01-01-181]

RIN 2115-AE84 and 2115-AA97

#### Regulated Navigation Area and Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule; change in effective period.

**SUMMARY:** The Coast Guard is extending the effective period of the Regulated Navigation Area (RNA) and Safety and Security Zones published October 10, 2001. This change will extend the effective period of the temporary final rule until December 31, 2002 to allow additional time to develop a permanent rule. This rule will continue to prohibit

vessels from entering certain areas of the port and impose restrictions on vessel operations in other areas.

**DATES:** §§ 165.T01-165 and 165.T01-166 are amended effective August 15, 2002, and remain in effect through December 31, 2002.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection and copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander E. Morton, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On October 10, 2001, we published a temporary final rule (TFR) entitled "Regulated Navigation Area and Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone" in the **Federal Register** (66 FR 51558-51562). The effective period for this rule was from September 28, 2001, through April 8, 2002. Although the rule was published without advance notice of proposed rulemaking, an opportunity for public comment was provided. The comment period closed on December 10, 2001. The Coast Guard received no letters commenting on the temporary rule. No public hearing was requested, and none was held.

Subsequently, the effective period of the rule was extended to August 15, 2002 (67 FR 16016-16018, April 4, 2002). We anticipated that the extension would provide sufficient time to develop permanent security zones within the port by informal rulemaking. Agency development of a permanent rule required more time than had been estimated and prevented informal notice and comment rulemaking within the period originally forecast.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3), the Coast Guard finds that good cause exists for not publishing an NPRM. The original TFR was urgently required to facilitate emergency services responding to terrorist attacks upon the World Trade Center in Manhattan, NY, and to prevent future terrorist strikes within and adjacent to the Port of New York/New Jersey. Those security considerations persist. We have determined that the public interest necessitates continued security regulations within the port while the

Coast Guard engages in informal rulemaking.

We consider additional notice and comment unnecessary for the extension of this temporary rule. The regulation imposes minimal, if any, burden on the maritime public as evidenced by the lack of response to the previous solicitation for comments. It does not interfere with the needs of navigation within the port; rather, it simply prevents vessels from entering relatively small areas of water adjacent to sensitive facilities. Moreover, as part of an ongoing assessment of the port security environment, the Captain of the Port relaxes or suspends enforcement of some of the restrictions permitted by the regulation. Any mitigation in the enforcement posture is broadcast to ensure widest dissemination to the maritime public.

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 revision preserves the status quo within the Port while permanent rules are developed. The present TFR has not been burdensome on the maritime public. The public was invited to comment upon or suggest modifications to the scope of the existing TFR by submitting written comments within 60 days of its publication in the **Federal Register**. None were received. Any delay in the effective date of this regulation is unnecessary and contrary to the public interest.

### **Background and Purpose**

Terrorist attacks against the World Trade Center in Manhattan, New York on September 11, 2001 inflicted catastrophic human casualties and property damage. Federal, state and local personnel are engaged in ongoing efforts to secure other potential terrorist targets from attack. The Coast Guard established RNAs and safety and security zones within defined areas of water in order to facilitate emergency response and rescue activities, protect human life, and safeguard vessels and waterfront facilities from sabotage or terrorist attacks.

These regulations were designed to provide the Captain of the Port of New York with maximum flexibility to respond to emergent threats and dangerous conditions. When less stringent security measures are required, the Captain of the Port communicates relaxed enforcement policies to the public. As a result, the full scope of these regulations is rarely imposed. Nevertheless, the flexibility to utilize those measures permitted by the TFR

and required by the circumstances is vital to ensure port security in the present security environment.

The temporary rule is only effective until August 15, 2002. The Coast Guard is extending the effective date of this rule until December 31, 2002, to allow the establishment of permanent safety and security zones by notice and comment rulemaking.

### **Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12886, 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 Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the sizes of the zones are the minimum necessary to provide adequate protection for the public, vessels, and vessel crews. Any vessels seeking entry into or movement within the safety and security zones must request permission from the Captain of the Port or his authorized patrol representative. Any hardships experienced by persons or vessels are considered minimal compared to the national interest protecting the public, vessels, and vessel crews from the further devastating consequences of the aforementioned acts of terrorism, and from potential future sabotage or other subversive acts, accidents, or other causes of a similar nature.

The Coast Guard will be publishing a NPRM to establish permanent safety and security zones that are temporarily effective under this rule.

### **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.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard expects the impact of this

regulation to be minimal and certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601-612) that this final rule will not have a significant economic impact on a substantial number of small entities. Maritime advisories will be initiated by normal methods and means and will be widely available to users of the area.

### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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. 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 Lieutenant Commander E. Morton, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

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 requirements under the Paperwork Reduction Act (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**

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.

**Environment**

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1D, 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.

**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.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

**Regulation**

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. Revise temporary § 165.T01-165(c) to read as follows:

**§ 165.T01-165 Regulated Navigation Area: New York Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(c) *Effective dates.* This section is effective from September 28, 2001 through December 31, 2002.

\* \* \* \* \*

3. Revise temporary § 165.T01-166(b) to read as follows:

**§ 165.T01-166 Safety and Security Zones: New York Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) *Effective dates.* This section is effective from September 28, 2001 through December 31, 2002.

\* \* \* \* \*

Dated: August 8, 2002.

**V.S. Crea,**

*Rear Admiral, Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 02-20625 Filed 8-12-02; 3:42 pm]

**BILLING CODE 4910-15-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[KY 125-200233(a); FRL-7259-7]**

**Approval and Promulgation of Implementation Plans for Kentucky: Regulatory Limit on Potential To Emit**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency is conditionally approving a revision to the State Implementation Plan (SIP) of the Commonwealth of Kentucky incorporating Kentucky rule 401 KAR 50:080. This rule affects sources whose actual emissions are 50 percent or less of the major source threshold whereas the sources' potential to emit (PTE) exceeds the major source threshold.

**DATES:** This direct final rule is effective October 15, 2002, without further notice, unless EPA receives adverse comment by September 16, 2002. 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:** All comments should be addressed to: Michele Notarianni, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. (404/562-9031 (phone) or [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov) (e-mail)).

Copies of the Commonwealth's submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. (Michele Notarianni, 404/562-9031, [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov))

Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601-1403. (502/573-3382)

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni at address listed above or 404-562-9031 (phone) or [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov) (e-mail).

**SUPPLEMENTARY INFORMATION:**

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**I. Today's Action**

The EPA is conditionally approving into the Kentucky SIP rule 401 KAR 52:080, "Regulatory Limit on Potential to Emit", based upon the Agency's understanding of Kentucky's interpretation of this regulation and Kentucky's commitment to clarify sections 2(3) and 4 of the rule within one year. In a letter to EPA dated April 18, 2002, the Commonwealth outlined its interpretation of the rule and provided a promulgation schedule for