

the Act under Section 17. The Assistant Secretary retains jurisdiction under the above provisions in any proceeding commenced under Section 9 or 10 before the effective date of the 18(e) determination. The Operational Status Agreement, effective January 23, 1975, and as amended, effective December 12, 1983 and November 27, 1991, is superseded by this action, except that it will continue to apply to temporary labor camps in agriculture, general industry, construction and logging.

(b)(1) In accordance with Section 18(e), final approval relinquishes Federal OSHA authority with regard to occupational safety and health issues covered by the Oregon plan (with the exception of temporary labor camps in agriculture, general industry, construction and logging). OSHA retains full authority over issues which are not subject to state enforcement under the plan. Thus, Federal OSHA retains its authority relative to:

(i) Standards in the maritime issues covered by 29 CFR parts 1915, 1917, 1918, and 1919 (shipyards, marine terminals, longshoring, and gear certification), and enforcement of general industry and construction standards (29 CFR parts 1910 and 1926) appropriate to hazards found in these employments, which have been specifically excluded from coverage under the plan. This includes: Employment on the navigable waters of the U.S.; shipyard and boatyard employment on or immediately adjacent to the navigable waters—including floating vessels, dry docks, graving docks and marine railways—from the front gate of the work site to the U.S. statutory limits; longshoring, marine terminal and marine grain terminal operations, except production or manufacturing areas and their storage facilities; construction activities emanating from or on floating vessels on the navigable waters of the U.S.; commercial diving originating from an object afloat a navigable waterway; and all other private sector places of employment on or adjacent to navigable waters whenever the activity occurs on or from the water;

(ii) Enforcement of occupational safety and health standards at all private sector establishments, including tribal and Indian-owned enterprises, on all Indian and non-Indian lands within the currently established boundaries of all Indian reservations, including the Warm Springs and Umatilla reservations, and on lands outside these reservations that are held in trust by the Federal government for these tribes. (Businesses owned by Indians or Indian tribes that conduct work activities outside the

tribal reservation or trust lands are subject to the same jurisdiction as non-Indian owned businesses.);

(iii) Enforcement of occupational safety and health standards at worksites located within Federal military reservations, except private contractors working on U.S. Army Corps of Engineers dam construction projects, including reconstruction of docks or other appurtenances;

(iv) Enforcement of occupational safety and health standards with regard to all Federal government employers and employees; and the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations.

(2) In addition, any hazard, industry, geographical area, operation or facility over which the state is unable to effectively exercise jurisdiction for reasons which OSHA determines are not related to the required performance or structure of the plan shall be deemed to be an issue not covered by the state plan which has received final approval, and shall be subject to Federal enforcement. Where enforcement jurisdiction is shared between Federal and state authorities for a particular area, project, or facility, in the interest of administrative practicability Federal jurisdiction may be assumed over the entire project or facility. In any of the aforementioned circumstances, Federal enforcement authority may be exercised after consultation with the state designated agency.

(c) Federal authority under provisions of the Act not listed in Section 18(e) is unaffected by final approval of the Oregon State Plan. Thus, for example, the Assistant Secretary retains authority under Section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the state for investigation. The Assistant Secretary also retains authority under Section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in states which have received an affirmative 18(e) determination, although such standards may not be federally applied. In the event that the state's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be federally enforceable in that state.

(d) As required by Section 18(f) of the Act, OSHA will continue to monitor the operations of the Oregon state program to assure that the provisions of the state plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the state to comply with its obligations may result in the suspension or revocation of the final approval determination under Section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05-05-013]

RIN 1625-AA00

#### Safety Zones; Fireworks Displays Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard will establish 34 permanent safety zones for fireworks displays at various locations within the geographic boundary of the Fifth Coast Guard District. This action is necessary to protect the life and property of the maritime public from the hazards posed by fireworks displays. Entry into or movement within these zones during the enforcement periods is prohibited without approval of the appropriate Captain of the Port.

**DATES:** This rule is effective June 13, 2005.

**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 CGD05-05-013 and are available for inspection or copying at Commander (oax), Fifth Coast Guard District, Room 119, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Dennis Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398-6204.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On March 31, 2005, we published a notice of proposed rulemaking (NPRM)

entitled Safety Zones; Fireworks Displays Within the Fifth Coast Guard District in the **Federal Register** (70 FR 16463). We received one letter commenting on the proposed rule. No public meeting was requested, and none was held.

### Background and Purpose

The Coast Guard will establish 34 permanent safety zones that will be enforced for fireworks displays occurring throughout the year that are held on an annual basis and normally held in one of 34 locations. The 34 locations are: Patuxent River Solomons Island, MD; Middle River, MD; Northeast River, MD; Potomac River, Charles County, MD; Baltimore Inner Harbor, Patapsco River, MD; Northwest Harbor (Western Section), Patapsco River, MD; Northwest Harbor (East Channel), Patapsco River, MD; Washington Channel, Upper Potomac River, Washington, DC; Dukeharts Channel, Potomac River, Coltons Point, MD; Severn River and Spa Creek, Annapolis, MD; Miles River, St. Michaels, MD; Chesapeake Bay, Chesapeake Beach, MD; Choptank River, Cambridge, MD; Chester River, Kent Island Narrows, MD; Atlantic Ocean, Ocean City, MD; Isle of Wight Bay, MD; Assawoman Bay, Fenwick Island, MD; Atlantic Ocean, Rehoboth Beach, DE; Indian River Bay, DE; Little Egg Harbor, NJ; Barnegat Bay, NJ; Delaware Bay, North Cape May, NJ; Delaware River, Philadelphia, PA; Morehead City Harbor Channel, Morehead City, NC; Green Creek and Smith Creek, Oriental, NC; Pamlico River, Washington, NC; Neuse River, New Bern, NC; Cape Fear River, Southport, NC; Cape Fear River, Wilmington, NC; Upper Potomac River, Alexandria, VA; Potomac River, Prince William County, VA; Chincoteague Channel, Chincoteague, VA; Atlantic Ocean, Virginia Beach, VA; and Elizabeth River, Southern Branch, Norfolk, VA. The Coast Guard received over 50 applications in these areas between January 2004 and January 2005. Previously a temporary safety zone was typically established on an emergency basis for each display.

Each year organizations in the Fifth Coast Guard District sponsor fireworks displays in the same general location and time period. Each event uses a barge or an on-shore site as the fireworks launch platform. A safety zone is used to control vessel movement within a specified distance surrounding the launch platforms to ensure the safety of persons and property. Coast Guard personnel on scene will allow persons within the safety zone if conditions permit. The Coast Guard will publish

notices in the **Federal Register** if an event sponsor reported a change to the listed event venue or date. Coast Guard Captains of the Port will give notice of the enforcement of each safety zone by all appropriate means to provide the widest publicity among the affected segments of the public. This will include publication in the Local Notice to Mariners and Marine Information Broadcasts. Marine information and facsimile broadcasts may also be made for these events, beginning 24 to 48 hours before the event is scheduled to begin, to notify the public. Fireworks barges or launch sites on land used in the locations stated in this rulemaking will also have a sign on the port and starboard side of the barge or mounted on a post 3 feet above ground level when on land and facing the water labeled "FIREWORKS—DANGER—STAY AWAY". This will provide on scene notice that the safety zone is or will be enforced on that day. This notice will consist of a diamond shaped sign 4 foot by 4 foot with a 3-inch orange retro-reflective border. The word "DANGER" shall be 10 inch black block letters centered on the sign with the words "FIREWORKS" and "STAY AWAY" in 6 inch black block letters placed above and below the word "DANGER" respectively on a white background. There will also be a Coast Guard patrol vessel on scene 30 minutes before the display is scheduled to start until 30 minutes after its completion to enforce the safety zone.

The enforcement period for these safety zones is from 5:30 p.m. (e.s.t.) to 1 a.m. (e.s.t.). However, vessels may enter, remain in, or transit through these safety zones during this timeframe if authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene, as provided for in 33 CFR 165.23.

This rule is to provide for the safety of life on navigable waters during the event.

### Discussion of Comments and Changes

One letter was received commenting on this rule. The comments in the letter indicated that the costs of the signs that provide on scene notice with the words "FIREWORKS" "DANGER" "STAY AWAY" would be prohibitive to fireworks production companies. Additionally, the comments indicated that the fireworks signs would bring undue attention to the presence of explosives in a particular area. The Coast Guard considers the cost associated to comply with this regulation fair and reasonable to ensure a safe event. The cost estimate provided in the comments significantly overstated

the actual cost of signage required by this rule. The signs required by this rule will be posted only on the days this rule is enforced, which will not cause undue attention to the presence of explosives in the area. This rule's objective is to provide mariners on scene notice and clearly establish safety zones by using highly visible signs to ensure boating traffic stays well clear of designated fireworks fall out areas. No change was made to this regulation as a result of the comments received.

### 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.

This finding is based on the short amount of time that vessels would be restricted from the zones, and the small zone sizes positioned in low vessel traffic areas. Vessels would not be precluded from getting underway, or mooring at any piers or marinas currently located in the vicinity of the safety zones. Advance notifications would also be made to the local maritime community by issuing Local Notice to Mariners. Marine information and facsimile broadcasts may also be made to notify the public. Additionally, the Coast Guard anticipates that these safety zones will only be enforced 2 to 3 times per year.

### 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 would not have a significant economic impact on a substantial number of small entities. This rule will effect the following entities some of which may be small

entities: The owners and operators of vessels intending to transit or anchor in the safety zones during the times these zones are enforced.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The enforcement period will be short in duration and in many of the zones vessels can transit safely around the safety zones. Generally, blanket permission to enter, remain in, or transit through these safety zones will be given except during the period that the Coast Guard patrol vessel is present. Before the enforcement period, we will issue maritime advisories widely.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 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.

#### Collection of Information

This rule would call 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This 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 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 would not create an environmental risk to health or risk to safety that might 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 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 M16475.1D, 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 fits the category selected from paragraph (34)(g), as it would establish 34 safety zones.

A draft "Environmental Analysis Check List" and a draft "Categorical Exclusion Determination" are available in the docket where indicated under ADDRESSES. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

#### 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 § 165.506 to read as follows:

**§ 165.506 Safety Zones; Fifth Coast Guard District Fireworks Displays.**

(a) *Locations.* (1) *Patuxent River, Solomons Island, MD, Safety Zone.* All waters of Patuxent River within a 300 yard radius of the fireworks barge in an area bound by the following points: 38°19'42" N, 076°28'02" W; thence to 38°19'26" N, 076°28'18" W; thence to 38°18'48" N, 076°27'42" W; thence to 38°19'06" N 076°27'25" W; (Datum NAD 1983), thence to the point of origin, located near Solomons Island, MD.

(2) *Middle River, Baltimore County, MD, Safety Zone.* All waters of the Middle River within a 300 yard radius of the fireworks barge in approximate position 39°17'45" N, 076°23'49" W (Datum NAD 1983), approximately 300 yards east of Rockaway Beach, near Turkey Point.

(3) *Northeast River, North East, MD, Safety Zone.* All waters of the Northeast River within a 300 yard radius of the fireworks barge in approximate position 39°35'26" N, 075°57'00" W (Datum NAD 1983), approximately 400 yards south of North East Community Park.

(4) *Potomac River, Charles County, MD, Safety Zone.* All waters of the Potomac River within a 250 yard radius of the fireworks barge in approximate position 38°20'30" N, 077°14'30" W (Datum NAD 1983), located near Fairview Beach, Virginia.

(5) *Baltimore Inner Harbor, Patapsco River, MD, Safety Zone.* All waters of the Patapsco River within a 150 yard radius of the fireworks barge in approximate position 39°16'55" N, 076°36'17" W (Datum NAD 1983), located at the entrance to Baltimore Inner Harbor, approximately 150 yards southwest of pier 6.

(6) *Northwest Harbor, (Western Section) Patapsco River, MD, Safety Zone.* All waters of the Patapsco River within a 250 yard radius of the fireworks barge in approximate position 39°16'37" N, 076°35'54" W (Datum NAD 1983), located near the western end of Northwest Harbor.

(7) *Northwest Harbor (East Channel), Patapsco River, MD, Safety Zone.* All waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position 39°15'55" N, 076°34'35" W (Datum NAD 1983), located adjacent to the East Channel of Northwest Harbor.

(8) *Washington Channel, Upper Potomac River, Washington, DC, Safety Zone.* All waters of the Upper Potomac River within a 150 yard radius of the fireworks barge in approximate position

38°52'09" N, 077°01'13" W (Datum NAD 1983), located within the Washington Channel in Washington Harbor, DC.

(9) *Dukeharts Channel, Potomac River, MD, Safety Zone.* All waters of the Potomac River within a 150 yard radius of the fireworks barge in approximate position 38°13'48" N, 076°44'37" W (Datum NAD 1983), located adjacent to Dukeharts Channel near Coltons Point, Maryland.

(10) *Severn River and Spa Creek, Annapolis, MD, Safety Zone.* All waters of the Severn River and Spa Creek within an area bounded by a line drawn from 38°58'39.6" N, 076°28'49" W; thence to 38°58'41" N, 076°28'14" W; thence to 38°59'01" N, 076°28'37" W; thence to 38°58'57" N, 076°28'40" W (Datum NAD 1983), located near the entrance to Spa Creek in Annapolis, Maryland.

(11) *Miles River, St. Michaels, MD, Safety Zone.* All waters of the Miles River within a 200 yard radius of the fireworks barge in approximate position 38°47'42" N, 076°12'23" W (Datum NAD 1983), located near the waterfront of St. Michaels, Maryland.

(12) *Chesapeake Bay, Chesapeake Beach, MD, Safety Zone.* All waters of the Chesapeake Bay within a 150 yard radius of the fireworks barge in approximate position 38°41'33" N, 076°31'48" W (Datum NAD 1983), located near Chesapeake Beach, Maryland.

(13) *Choptank River, Cambridge, MD, Safety Zone.* All waters of the Choptank River within a 300 yard radius of the fireworks launch site at Great Marsh Point, located at 38°35'06" N, 076°04'46" W (Datum NAD 1983).

(14) *Chester River, Kent Island Narrows, MD, Safety Zone.* All waters of the Chester River within a 250 yard radius of the fireworks barge in approximate position 38°58'51.6" N, 076°14'49.8" W (Datum NAD 1983), approximately 500 yards west of the northern approach to Kent Island Narrows channel.

(15) *Atlantic Ocean, Ocean City, MD, Safety Zone.* All waters of the Atlantic Ocean in an area bound by the following points: 38°19'39.9" N, 075°05'03.2" W; thence to 38°19'36.7" N, 075°04'53.5" W; thence to 38°19'45.6" N, 075°04'49.3" W; thence to 38°19'49.1" N, 075°05'00.5" W; (Datum NAD 1983), thence to point of origin. The size of the proposed zone extends approximately 300 yards offshore from the fireworks launch area located at the High Water mark on the beach.

(16) *Isle of Wight Bay, Ocean City, MD, Safety Zone.* All waters of Isle of Wight Bay within a 350 yard radius of the fireworks barge in approximate

position 38°22'32" N, 075°04'30" W (Datum NAD 1983).

(17) *Assawoman Bay, Fenwick Island—Ocean City, MD, Safety Zone.* All waters of Assawoman Bay within a 360 yard radius of the fireworks launch location on the pier at the West end of Northside Park, in approximate position 38°25'57.6" N, 075°03'55.8" W (Datum NAD 1983).

(18) *Atlantic Ocean, Rehoboth Beach, DE, Safety Zone.* All waters of the Atlantic Ocean within a 360 yard radius of the fireworks barge in approximate position 38°43'01.2" N, 075°04'21" W (Datum NAD 1983), approximately 400 yards east of Rehoboth Beach, DE.

(19) *Indian River Bay, DE, Safety Zone.* All waters of the Indian River Bay within a 360 yard radius of the fireworks launch location on the pier in approximate position 38°36'42" N, 075°08'18" W (Datum NAD 1983), about 700 yards east of Pots Net Point, DE.

(20) *Little Egg Harbor, Parker Island, NJ, Safety Zone.* All waters of Little Egg Harbor within a 500 yard radius of the fireworks barge in approximate position 39°34'18" N, 074°14'43" W (Datum NAD 1983), approximately 100 yards north of Parkers Island.

(21) *Barneget Bay, Ocean Township, NJ, Safety Zone.* All waters of Barneget Bay within a 500 yard radius of the fireworks barge in approximate position 39°47'33" N, 074°10'46" W (Datum NAD 1983).

(22) *Delaware Bay, North Cape May, NJ, Safety Zone.* All waters of the Delaware Bay within a 500 yard radius of the fireworks barge in approximate position 38°58'00" N, 074°58'30" W (Datum NAD 1983).

(23) *Delaware River, Philadelphia, PA, Safety Zone.* All waters of Delaware River, adjacent to Penns Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline at 39°56'31.2" N, 075°08'28.1" W; thence to 39°56'29.1" N, 075°07'56.5" W, and bounded on the north by the Benjamin Franklin Bridge, (Datum NAD 1983).

(24) *Morehead City Harbor Channel, NC, Safety Zone.* All waters of Morehead City Harbor Channel that fall within a 360 yard radius of latitude 34°43'01" N, 076°42'59.6" W, a position located at the west end of Sugar Loaf Island, NC.

(25) *Cape Fear River, Wilmington, NC, Safety Zone.* All waters of the Cape Fear River within an area bound by a line drawn from the following points: 34°14'12" N, 077°57'07.2" W; thence to 34°14'12" N, 077°57'06" W; thence to 34°13'54" N, 077°57'00" W; thence to 34°13'54" N, 077°57'06" W; thence to

the point of origin, (Datum NAD 1983), located 500 yards north of Cape Fear Memorial Bridge.

(26) *Cape Fear River, Southport, NC, Safety Zone.* All waters of the Cape Fear River within a 600 yard radius of the fireworks barge in approximate position 33°54'40" N, 078°01'18" W (Datum NAD 1983), approximately 700 yards south of the waterfront at Southport, NC.

(27) *Green Creek and Smith Creek, Oriental, NC, Safety Zone.* All waters of Green Creek and Smith Creek that fall within a 300 yard radius of the fireworks launch site at 35°01'29.6" N, 076°42'10.4" W (Datum NAD 1983), located near the entrance to the Neuse River in the vicinity of Oriental, NC.

(28) *Pamlico River, Washington, NC, Safety Zone.* All waters of the Pamlico River that fall within a 300 yard radius of the fireworks launch site at 35°32'19" N, 077°03'20.5" W (Datum NAD 1983), located 500 yards north of Washington railroad trestle bridge.

(29) *Neuse River, New Bern, NC, Safety Zone.* All waters of the Neuse River within a 360 yard radius of the fireworks barge in approximate position 35°06'07.1" N, 077°01'35.8" W (Datum NAD 1983), located 420 yards north of the New Bern, Twin Span, high rise bridge.

(30) *Upper Potomac River, Alexandria, VA, Safety Zone.* All waters of the Upper Potomac River within a 300 yard radius of the fireworks barge in approximate position 38°48'37" N, 077°02'02" W (Datum NAD 1983), located near the waterfront of Alexandria, Virginia.

(31) *Potomac River, Prince William County, VA, Safety Zone.* All waters of the Potomac River within a 200 yard radius of the fireworks barge in approximate position 38°34'08" N, 077°15'34" W (Datum NAD 1983), located near Cherry Hill, Virginia.

(32) *Chincoteague Channel, Chincoteague, VA, Safety Zone.* All waters of the Chincoteague Channel within a 360 yard radius of the fireworks launch location at the Chincoteague carnival waterfront in approximate position 37°55'40.3" N, 075°23'10.7" W (Datum NAD 1983), approximately 900 yards southwest of Chincoteague Swing Bridge.

(33) *Atlantic Ocean, Virginia Beach, VA, Safety Zone.* All waters of the Atlantic Ocean enclosed within a 360 yard radius of the center located on the beach at approximate position 36°51'34.8" N, 075°58'30" W (Datum NAD 1983).

(34) *Elizabeth River, Southern Branch, Norfolk, VA, Safety Zone:* All waters of Elizabeth River Southern Branch in an area bound by the following points:

36°50'54.8" N, 076°18'10.7" W; thence to 36°51'7.9" N, 076°18'01" W; thence to 36°50'45.6" N, 076°17'44.2" W; thence to 36°50'29.6" N, 076°17'23.2" W; thence to 36°50'7.7" N, 076°17'32.3" W; thence to 36°49'58" N, 076°17'28.6" W; thence to 36°49'52.6" N, 076°17'43.8" W; thence to 36°50'27.2" N, 076°17'45.3" W thence to the point of origin, (Datum NAD 1983).

(b) *Notification.* (1) Fireworks barges and launch sites on land in paragraph (a) of this section shall have a sign on the port and starboard side of the barge or mounted on a post 3 foot above ground level when on land and facing the water labeled "FIREWORKS—DANGER—STAY AWAY". This will provide on scene notice that the safety zone will be enforced on that day. This notice will consist of a diamond shaped sign 4 foot by 4 foot with a 3-inch orange retro-reflective border. The word "DANGER" shall be 10 inch black block letters centered on the sign with the words "FIREWORKS" and "STAY AWAY" in 6 inch black block letters placed above and below the word "DANGER" respectively on a white background.

(2) Coast Guard Captains of the Port in the Fifth Coast Guard District will notify the public of the enforcement of these safety zones by all appropriate means to effect the widest publicity among the affected segments of the public, including publication in the local notice to mariners, marine information broadcasts, and facsimile broadcasts may be made for these events, beginning 24 to 48 hours before the event is scheduled to begin, to notify the public.

(c) *Enforcement Period.* The safety zones in paragraph (a) of this section will be enforced from 5:30 p.m. to 1 a.m. each day a barge with a "FIREWORKS—DANGER—STAY AWAY" sign on the port and starboard side is on-scene or a "FIREWORKS—DANGER—STAY AWAY" sign is posted on land, in a location listed in paragraph (a) of this section. Vessels may not enter, remain in, or transit through the safety zones during these enforcement periods unless authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene.

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

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. Those personnel are compromised of commissioned, warrant, and petty officers of the Coast Guard. Other Federal, State and local agencies may assist these personnel in the

enforcement of the safety zone. Upon being hailed by the U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(e) *Definitions.*

*Captain of the Port* means any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his or her behalf.

*State or local law enforcement officers* mean any State or local government law enforcement officer who has the authority to enforce State criminal laws.

Dated: May 3, 2005.

**Lawrence J. Bowling,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03-OAR-2004-DC-0007; FRL-7909-8]

### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; VOC Emission Standards for AIM Coatings

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the District of Columbia (the District). This revision pertains to the volatile organic compound (VOC) emission standards for architectural and industrial maintenance (AIM) coatings in the District. EPA is approving this SIP revision in accordance with the Clean Air Act (CAA or Act).

**DATES:** *Effective Date:* This final rule is effective on June 13, 2005.

**ADDRESSES:** EPA has established a docket for this action under Regional Material in EDocket (RME) ID Number R03-OAR-2004-DC-0007. All documents in the docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Once in the system, select "quick search," then key in the appropriate RME identification number. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly