

100, for the annual Port Huron to Mackinac Island Sail Race, July 17, 2010 at 9 a.m. to July 17, 2010 at 4 p.m. This action is necessary to safely control vessel movements in the vicinity of the start of the race and provide for the safety of the general boating public and commercial shipping. Regulations will be in effect for seven hours on the day the event starts. The Coast Guard will patrol the race area under the direction of a designated Coast Guard Patrol Commander.

An environmental analysis checklist and a categorical exclusion determination are 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, Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 100.T09–0659 is added to read as follows:

**§ 100.T09–0659 Special Local Regulations for Marine Events; Port Huron to Mackinac Island Sail Race.**

(a) *Location.* The special local regulations apply to the waters of the Black River, St. Clair River and lower Lake Huron from:

Latitude	Longitude
42[deg]58.8[min] N .....	082[deg]26[min] W, to
42[deg]58.4[min] N .....	082[deg]24.8[min] W, thence northward along the International Boundary to
43[deg]02.8[min] N .....	082[deg]23.8[min] W, to
43[deg]02.8[min] N .....	082[deg]26.8[min] W, thence southward along the U.S. shoreline to
42[deg]58.9[min] N .....	082[deg]26[min] W, thence to
42[deg]58.8[min] N .....	082[deg] 26[min] W.

[DATUM: NAD 83].

(b) *Effective period.* This rule is effective from 9 a.m. to 4 p.m. on July 17, 2010.

(c) *Regulations.* (1) In accordance with the general regulations in section 100.35 of this part, the Coast Guard will patrol the regatta area under the direction of a designated Coast Guard Patrol Commander (PATCOM). The PATCOM may be contacted on Channel 16 (156.8 MHz) by the call sign “Coast Guard Patrol Commander.” Vessels desiring to transit the regulated area may do so only with prior approval of the PATCOM and when so directed by that officer.

(2) Vessels will be operated at a no wake speed to reduce the wake to a minimum, and in a manner which will not endanger participants in the event or any other craft. The rules in this subparagraph shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

(3) The Patrol Commander may direct the anchoring, mooring or movement of any boat or vessel within the regatta area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard PATCOM shall serve as a signal to stop. Vessels so signaled shall stop and shall comply with the orders of the PATCOM. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) The PATCOM may establish vessel size and speed limitations and operating conditions. The PATCOM may restrict vessel operation within the regatta area

to vessels having particular operating characteristics. The PATCOM may terminate the marine event or the operation of vessel at any time it is deemed necessary for the protection of life and property.

Dated: July 2, 2010.  
**M.N. Parks,**  
*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*  
 [FR Doc. 2010–17339 Filed 7–15–10; 8:45 am]  
**BILLING CODE 4910–15–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG–2010–0589]

RIN 1625–AA00

**Safety Zone; Fireworks Display, Potomac River, Charles County, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone upon specified waters of the Potomac River. All persons and vessels are prohibited from transiting the zone, except as authorized by the Coast Guard Captain of the Port Baltimore. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a discharge barge located near Dumfries, Virginia. This safety zone is intended to protect the

maritime public in a portion of the Potomac River.

**DATES:** This rule is effective from 7:30 p.m. on July 24, 2010 through 11 p.m. on July 25, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0589 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0589 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Mr. Ronald L. Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410–576–2674, e-mail [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to

comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is contrary to public interest to delay the effective date of this rule. Delaying the effective date by first publishing an NPRM would be contrary to the safety zone’s intended objectives because immediate action is needed to protect persons and vessels against the hazards associated with a fireworks display on navigable waters. Such hazards include premature detonations, dangerous projectiles and falling or 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**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone’s intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

#### **Basis and Purpose**

Fireworks displays are frequently held from locations on or near the navigable waters of the United States. The potential hazards associated with fireworks displays are a safety concern during such events. The purpose of this rule is to promote public and maritime safety during a fireworks display, and to protect mariners transiting the area from the potential hazards associated with a fireworks display, such as the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is needed to ensure safety on the waterway during the scheduled event.

#### **Discussion of Rule**

Prince William Marine Sales, of Woodbridge, Virginia, will sponsor a fireworks display from a barge located in the Potomac River near Dumfries, Virginia scheduled on Saturday, July 24, 2010 at 9:30 p.m., and if necessary due to inclement weather, on Sunday, July 25, 2010 at 9:30 p.m.

The Coast Guard is establishing a temporary safety zone on certain waters of the Potomac River, within a 500 feet radius of a fireworks discharge barge in approximate position latitude 38°34′07″ N., longitude 077°15′32″ W., located approximately 650 feet east of the pierhead at Tim’s Rivershore Restaurant

in Dumfries, Virginia (NAD 1983). The temporary safety zone will be enforced from 7:30 p.m. through 11 p.m. on July 24, 2010, and if necessary due to inclement weather, from 7:30 p.m. through 11 p.m. on July 25, 2010. The effect of this temporary safety zone will be to restrict navigation in the regulated area during the fireworks display. No person or vessel may enter or remain in the safety zone. Vessels will be allowed to transit the waters of the Potomac River outside the safety zone. Notification of the temporary safety zone will be provided to the public via marine information broadcasts.

#### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### **Regulatory Planning and Review**

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. Although this safety zone will restrict some vessel traffic, there is little vessel traffic associated with commercial fishing, and recreational boating in the area can transit waters outside the safety zone. In addition, the effect of this rule will not be significant because the safety zone is of limited duration and limited size. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

#### **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 operate, transit, or anchor in a portion of the Potomac

River, located at Dumfries, VA, from 7:30 p.m. through 11 p.m. on July 24, 2010, and if necessary due to inclement weather, from 7:30 p.m. through 11 p.m. on July 25, 2010. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone is of limited size and duration. In addition, before the effective periods, the Coast Guard will issue maritime advisories widely available to users of the waterway to allow mariners to make alternative plans for transiting the affected area.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can 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). 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 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 (adjusted for inflation) 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 cause 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 Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone.

An environmental analysis checklist and a categorical exclusion determination are 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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.T05-0589 to read as follows:

#### § 165.T05-0589 Safety Zone; Fireworks Display, Potomac River, Charles County, MD.

(a) *Regulated Area.* The following area is a safety zone: All waters in the Potomac River, within a 500 feet radius of a fireworks discharge barge in approximate position latitude 38°34'07" N., longitude 077°15'32" W., located approximately 650 feet east of the pierhead at Tim's Rivershore Restaurant in Dumfries, Virginia (NAD 1983).

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, all vessels and persons are prohibited from entering this zone, except as authorized by the Coast Guard Captain of the Port Baltimore.

(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 on VHF-FM marine band radio channel 16.

(3) All Coast Guard assets enforcing this safety zone can be contacted on VHF-FM marine band radio channels 13 and 16.

(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.

(c) *Definitions.* *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.

*Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

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

(e) *Enforcement period.* This section will be enforced from 7:30 p.m. through 11 p.m. on July 24, 2010, and if necessary due to inclement weather, from 7:30 p.m. through 11 p.m. on July 25, 2010.

Dated: June 30, 2010.

Mark P. O'Malley,

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

[FR Doc. 2010-17342 Filed 7-15-10; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[Docket EPA-R10-OAR-2010-0432; FRL-9171-4]

### Finding of Attainment for PM<sub>10</sub> for the Mendenhall Valley PM<sub>10</sub> Nonattainment Area, AK

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA finds that the Mendenhall Valley nonattainment area in Alaska attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM<sub>10</sub>) as of December 31, 1995.

**DATES:** This rule is effective on September 14, 2010, without further notice, unless EPA receives adverse comment by August 16, 2010. If EPA receives adverse comment, we will publish a timely withdrawal in the *Federal Register* informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2010-0432, by any of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: [body.steve@epa.gov](mailto:body.steve@epa.gov).
- *Mail*: Steve Body, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- *Hand Delivery/Courier*: EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. *Attention*: Steve Body, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R10-OAR-2010-0432. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless

the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., 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 available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle WA 98101.

**FOR FURTHER INFORMATION CONTACT:** Steve Body at *telephone number*: (206) 553-0782, *e-mail address*: [body.steve@epa.gov](mailto:body.steve@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we", "us" or "our" are used, we mean EPA. Information is organized as follows:

### Table of Contents

- I. Background
  - A. PM<sub>10</sub> NAAQS
  - B. Designation and Classification of PM<sub>10</sub> nonattainment areas
  - C. How does EPA make attainment determinations?

- D. What is the attainment date for the Mendenhall PM<sub>10</sub> nonattainment area?
- E. What PM<sub>10</sub> planning has occurred for the Mendenhall Valley PM<sub>10</sub> nonattainment area?

### II. EPA's Analysis

- A. What does the air quality data show as of the December 31, 1995 attainment date?
- B. Does more recent air quality data also show attainment?

### III. Statutory and Executive Order Reviews

#### I. Background

##### A. PM<sub>10</sub> NAAQS

The NAAQS are levels for certain ambient air pollutants set by EPA to protect public health and welfare. PM<sub>10</sub>, or particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, is among the ambient air pollutants for which EPA has established health-based standards. On July 1, 1987 (52 FR 24634), EPA promulgated two primary standards for PM<sub>10</sub>: a 24-hour standard of 150 micrograms per cubic meter (µg/m<sup>3</sup>) and an annual PM<sub>10</sub> standard of 50 µg/m<sup>3</sup>. EPA also promulgated secondary PM<sub>10</sub> standards that were identical to the primary standards.

Effective December 18, 2006, EPA revoked the annual PM<sub>10</sub> standard but retained the 24-hour PM<sub>10</sub> standard. 71 FR 61144 (October 17, 2006). The 24-hour PM<sub>10</sub> standard is attained when the expected number of days per calendar year with a 24-hour concentration in excess of the standard, as determined in accordance with 40 CFR part 50, appendix K, is equal to or less than one.<sup>1</sup> 40 CFR 50.6 and 40 CFR part 50, appendix K.

##### B. Designation and Classification of PM<sub>10</sub> Nonattainment Areas

Areas meeting the requirements of section 107(d)(4)(B) of the Clean Air Act (CAA or the Act) were designated nonattainment for PM<sub>10</sub> by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. *See generally* 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM<sub>10</sub> planning areas identified on August 7, 1987 (52 FR 29383), as further clarified on October 31, 1990 (55 FR 45799), and any other areas violating the NAAQS for PM<sub>10</sub> prior to January 1, 1989. A **Federal Register** notice announcing the areas

<sup>1</sup> An exceedance is defined as a daily value that is above the level of the 24-hour standard (150 µg/m<sup>3</sup>) after rounding to the nearest 10 µg/m<sup>3</sup> (*i.e.* values ending in 5 or greater are to be rounded up). Thus, a recorded value of 154 µg/m<sup>3</sup> would not be an exceedance since it would be rounded to 150 µg/m<sup>3</sup> whereas a recorded value of 155 µg/m<sup>3</sup> would be an exceedance since it would be rounded to 160 µg/m<sup>3</sup>. *See* 40 CFR part 50, appendix K, section 1.0.