

## 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 Commandant Instruction M16475.ID

and Department of Homeland Security Management Directive 5100.1, 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 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 establishes a safety zone.

Under figure 2–1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

## 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 temporary § 165.T05–093 to read as follows:

### § 165.T05–093 Safety zone; Fireworks Display, Susquehanna River, Havre de Grace, Maryland.

(a) *Location.* The following area is a safety zone: All waters of the Susquehanna River near Havre de Grace, Maryland, surface to bottom, within a 150 yard radius of the fireworks barge in approximate position 39°32'42" N., 076°04'30" W. All coordinates reference Datum NAD.

(b) *Definition.* The 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.

(c) *Regulations.* The general regulations governing safety zones, found in Sec. 165.23, apply to the safety zone described in paragraph (a) of this section.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Captain of the Port, Baltimore, Maryland.

(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 by marine band radio on VHF channel 16 (156.8 MHz).

(3) All Coast Guard vessels enforcing this safety zone can be contacted on marine band radio VHF channel 16 (156.8 MHz).

(4) Any person or operator of any vessel within or in the immediate vicinity of this safety zone, upon being hailed by siren, radio, flashing light or other means, 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.

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

(e) *Effective period.* This section is effective from 7:30 p.m. to 10:30 p.m. on September 30, 2006.

Dated: August 31, 2006.

**Brian D. Kelley,**

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

[FR Doc. E6–15297 Filed 9–14–06; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[USCG–2006–25411]

RIN 1625–ZA11

### Geographical Extension of Coast Guard Authority to Enforce Naval Vessel Protection Zones; Conforming Amendment

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising its informational, geographic-application regulation for naval vessel protection zones (NVPZs) to reflect a recent expansion of the jurisdiction for NVPZs. Section 201 of the Coast Guard and Maritime Transportation Act of 2006 amended 14 U.S.C. 91 defines "navigable waters" to include the waters 12 nautical-miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline. As a result of this legislation, Naval

Vessel Protection Zone (NVPZ) regulations are now enforceable in navigable waters out to the full extent of the U.S. territorial sea, 12 nautical miles seaward from the baseline. This conforming amendment to our regulation reflects this recently-enacted authority.

**DATES:** This final rule is effective September 15, 2006.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2006-25411 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Mr. Brad Kieserman, Office of Maritime and International Law, Coast Guard, at telephone 202-372-3798. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-493-0402.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under both 5 U.S.C. 553(b)(A) and (b)(B), the Coast Guard finds that this rule is exempt from notice-and-comment rulemaking requirements because this it reflects an interpretation of a recent amendment to 14 U.S.C. 91 and good cause exists because it would be contrary to public interest to delay the revision of 33 CFR 165.9 (d), a paragraph that no longer accurately reflects the geographic jurisdiction for NVPZs. For the same reason—the need to correct the NVPZ, geographic jurisdiction limits represented in § 165.9 (d), 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**.

#### Background and Purpose

The Coast Guard is authorized by 14 U.S.C. 91 to control the anchorage and movement of a vessel operating in the vicinity of a U.S. naval vessel. The Coast Guard has implemented the provisions of 14 U.S.C. 91 by establishing and enforcing Naval Vessel Protection Zones (NVPZ), 33 CFR part 165, subpart G.

A NVPZ is a 500-yard regulated area of water surrounding a large U.S. naval vessel providing for the safety or security of the vessel. 33 CFR 165.2015. Section 91 of 14 U.S.C. authorizes the Secretary, Department of Homeland Security, to control the anchorage and movement of any vessel in the “navigable waters” of the United States to ensure the safety or security of any U.S. naval vessel in those waters. When the Secretary does not exercise this authority, and immediate action is required, 14 U.S.C. 91 authorizes the senior naval officer present in command to control the anchorage or movement of any vessel in the “navigable waters” of the United States to ensure the safety or security of any U.S. naval vessel under the officer’s command.

We provide the following definitions, among others, in 33 CFR 165.2015 to identify the persons and vessels involved in the NVPZ regulations:

- *Large U.S. naval vessel* means any U.S. naval vessel greater than 100 feet in length overall.
- *Senior naval officer present in command* is, unless otherwise designated by competent authority, the senior line officer of the U.S. Navy on active duty, eligible for command at sea, who is present and in command of any part of the Department of the Navy in the area.
- *Vessel* means every description of watercraft or other artificial contrivance, used or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. naval vessels.
- *U.S. naval vessel* means any vessel owned, operated, chartered or leased by the U.S. Navy; any pre-commissioned vessel under construction for the U.S. Navy, once launched into the water; and any vessel under the operational control of the U.S. Navy or Combatant Command.

On July 11, 2006, the Coast Guard and Maritime Transportation Act of 2006 (CGMTA), Pub. L. No. 109-241, 120 Stat. 516, was enacted. Through its reference to Presidential Proclamation No. 5928 of December 27, 1988, sec. 201 of CGMTA extends NVPZs (including enforcement by Department of Defense assets) out to the full extent of the U.S. territorial sea, 12 nautical miles from the baseline.

#### Discussion of Final Rule

Sections 165.2025 and 165.2030 of 33 CFR apply NVPZs to any vessel or person in the navigable waters of the United States within the boundaries of the U.S. Coast Guard’s Atlantic Area or Pacific Area. The term “Navigable waters of the United States” is defined

in 33 CFR 2.36 and includes “[t]erritorial seas of the United States.” The definition of “territorial seas of the United States,” in 33 CFR 2.22 includes “the waters, 12 nautical miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline for \* \* \* [a]ny other \* \* \* statute, \* \* \* or amendment thereto, interpreted by the Coast Guard as incorporating the definition of territorial sea as being 12-nautical-miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline”.

Consistent with 33 CFR 2.22(a)(1)(v), we interpret the amended 14 U.S.C. 91 as incorporating the appropriate 12-nautical-mile-wide definition of territorial sea. Therefore, consistent with 33 CFR 165.9(a), we are revising paragraph (d) of § 165.9 to reflect this legislative change in the geographic application of NVPZs from 3 nautical miles seaward of the territorial sea baseline to 12 nautical miles seaward of the territorial sea baseline.

#### 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. It has not been reviewed by the Office of Management and Budget under that Order. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This rule reflects the expansion of the waters where NVPZs will exist based on the amendment of 14 U.S.C. 91 by sec. 201 of the Coast Guard and Maritime Transportation Act of 2006. The impact caused by this legislative change will not be significant because: (i) Individual NVPZs are limited in size; (ii) the Coast Guard, senior naval officer present in command, or official patrol may authorize access to the naval vessel protection zone; and (iii) the NVPZ for any given transiting naval vessel will only effect a given geographical location for a limited time.

#### 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. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

This rule reflects a legislative change in the geographic scope of NVPZ that will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of U.S. naval vessels in the navigable waters of the United States from 3 to 12 miles seaward of the territorial sea baseline.

This regulation will not have a significant economic impact on a substantial number of small entities for the following reason: This rule merely updates 33 CFR 165.9 to reflect the current navigable waters where NVPZs occur. The impact of the legislation expanding the waters in which NVPZs occur will be limited because individual NVPZs are limited in size; the official patrol may authorize access to NVPZs; and the NVPZ for any given transiting naval vessel will only affect a given geographic location for a limited time.

Therefore, 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. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain 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 consult Mr. Brad Kieserman, Office of Maritime and International Law, Coast Guard, at telephone 202-372-3798. 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.

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 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 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.

#### **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.

If you disagree with our analysis of the voluntary consensus standards listed above or are aware of voluntary consensus standards that might apply but are not listed, please identify them in a comment to the Docket Management Facility at the address under **ADDRESSES** and explain why they should be used.

## Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, 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 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 is needed to correct the NVPZ, geographic jurisdiction limits represented in § 165.9(d) to reflect a recent amendment to 14 U.S.C. 91 by section 201 of the Coast Guard and Maritime Transportation Act of 2006.

A final “Environmental Analysis Check List” and a final “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. 1225, 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.

#### § 165.9 [Amended]

■ 2. In § 165.9, amend paragraph (d) by removing the term “3 nautical miles” and adding, in its place, the term “12 nautical miles”.

Dated: September 9, 2006.

**David Pekoske,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Response.*

[FR Doc. E6–15295 Filed 9–14–06; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA–R03–OAR–2006–0485; FRL–8219–9]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the Huntington, WV Portion of the Huntington-Ashland 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of West Virginia. The West Virginia Department of Environmental Protection (WVDEP) is requesting that the Huntington, West Virginia (Huntington) portion of the Huntington-Ashland, WV-KY area be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the State submitted a SIP revision consisting of a maintenance plan for Huntington that provides for continued attainment of the 8-hour ozone NAAQS for the next 12 years, until 2018. Concurrently, EPA is approving the maintenance plan as meeting the requirements of Clean Air Act (CAA) 175A(b) with respect to the 1-hour ozone maintenance plan update. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the 8-hour maintenance plan for Huntington for purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request and the maintenance plan revision to the West Virginia SIP in accordance with the requirements of the CAA.

**DATES:** *Effective Date:* This final rule is effective on October 16, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2006–0485. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) website. 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 available only in hard copy form.

Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

#### FOR FURTHER INFORMATION CONTACT:

Amy Caprio, (215) 814–2156, or by e-mail at [caprio.amy@epa.gov](mailto:caprio.amy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

### I. Background

On July 13, 2006 (71 FR 39618), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of West Virginia's redesignation request and a SIP revision that establishes a maintenance plan for Huntington that sets forth how Huntington will maintain attainment of the 8-hour ozone NAAQS for the next 12 years. The formal SIP revision was submitted by the WVDEP on May 17, 2006. Other specific requirements of West Virginia's redesignation request SIP revision for the maintenance plan and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

### II. Final Action

EPA is approving the State of West Virginia's May 17, 2006 redesignation request and maintenance plan because the requirements for approval have been satisfied. EPA has evaluated West Virginia's redesignation request, submitted on May 17, 2006, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that Huntington has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of the Huntington, West Virginia portion of the Huntington-Ashland area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for this area, submitted on May 17, 2006, as a revision to the West Virginia SIP. EPA is approving the maintenance plan for Huntington because it meets the requirements of section 175A and 175A(b) with respect to the 1-hour ozone maintenance plan update. EPA is