

sex” in Title VII necessarily includes discrimination because of sexual orientation, gender identity, and transgender status. *Bostock v. Clayton County*, 140 S. Ct. 1731, 1753–54 (2020).

Since *Bostock*, at least one Federal circuit court of appeal has concluded that the plain language of Title IX’s prohibition on sex discrimination must be read similarly, and the Supreme Court has denied review of that decision. *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 616 (4th Cir. 2020), *as amended* (Aug. 28, 2020), *petition for cert. denied*, No. 20–1163 (June 28, 2021).

On March 26, 2021, the Civil Rights Division of the U.S. Department of Justice, the agency charged with coordination of the implementation and enforcement of Title IX by executive agencies, issued a memorandum concluding that “the best reading of Title IX’s prohibition on discrimination ‘on the basis of sex’ is that it includes discrimination on the basis of gender identity and sexual orientation.”² The Civil Rights Division reached this conclusion after considering the text of Title IX, *Bostock* and other Supreme Court case law, including dissenting opinions, and developing jurisprudence in this area, including the circuit court opinion cited above. The Civil Rights Division subsequently updated its Title IX Legal Manual to state that the Department of Justice interprets Title IX to prohibit discrimination based on gender identity and sexual orientation.³

In addition, on June 22, 2021, the Office for Civil Rights of the U.S. Department of Education, the agency responsible for that Department’s enforcement of Title IX, published a notice in the **Federal Register** clarifying that it will enforce Title IX’s prohibition on discrimination based on sex to include discrimination based on both sexual orientation and gender identity.⁴ The Office for Civil Rights concluded that the Supreme Court’s interpretation of sex discrimination in *Bostock* properly applies to Title IX based on the

textual similarity between Title VII and Title IX; subsequent case law including the *Grimm* decision cited above, as well as cases recognizing the harm that students may endure as a result of differential treatment based on gender identity or sexual orientation;⁵ and the Civil Rights Division’s memorandum discussed above.

Section 188 of WIOA expressly incorporates Title IX’s prohibition on sex discrimination. 29 U.S.C. 3248(a)(2) (specifying that “[n]o individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity [funded or otherwise financially assisted in whole or in part under Title I of WIOA] because of . . . sex (except as otherwise permitted under title IX of the Education Amendments of 1972 . . .)”); *see also id.* 3248(a)(1) (providing that “programs and activities funded or otherwise financially assisted in whole or in part under [WIOA] are considered to be programs and activities receiving Federal financial assistance” for the purpose of applying the prohibition against discrimination on the basis of sex under Title IX).

Consistent with the Supreme Court’s interpretation of Title VII in *Bostock* and with the case law and interpretations discussed above applying the same conclusion to Title IX, beginning April 7, 2022, CRC interprets Section 188’s prohibition on discrimination on the basis of sex to include discrimination on the basis of sexual orientation, as well as gender identity and transgender status. This interpretation will guide CRC in processing complaints and conducting investigations and compliance reviews, but it does not determine the outcome in any particular case, which will depend on the specific facts and circumstances. Any action taken by CRC in a specific case will take account of all relevant facts and legal

requirements, including, where applicable, Title IX’s religious exemption and other exemptions, which are incorporated into Section 188, *see* 29 U.S.C. 3248(a)(2), and the Religious Freedom Restoration Act, 42 U.S.C. 2000bb *et seq.*

If you think that you have, or any specific class of individuals has, been subjected to discrimination under a WIOA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: (1) The recipient’s Equal Opportunity Officer (or the person whom the recipient has designated for this purpose) or (2) CRC, via postal mail addressed to The Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N–4123, Washington, DC 20210, or electronically as directed on the CRC website at <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/external/how-to-file-complaint>. The complaint will be processed in accordance with the procedures at 29 CFR 38.69–.85. After investigating the complaint, if the Director of CRC finds reasonable cause to believe that the recipient has violated WIOA Section 188 or its implementing regulations, the Director is required to issue an Initial Determination that includes the opportunity for the recipient to engage in voluntary compliance negotiations. 29 CFR 38.87(e).

Martin J. Walsh,

Secretary, Department of Labor.

[FR Doc. 2022–07290 Filed 4–6–22; 8:45 am]

BILLING CODE 4510–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0212]

RIN 1625–AA00

Safety Zone; Anacostia River, Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Anacostia River. The safety zone is needed to protect personnel, vessels, and the marine environment on these navigable waters near Washington, DC on April 16, 2022

² Memorandum from Principal Deputy Assistant Attorney General Pamela S. Karlan, Civil Rights Division, U.S. Department of Justice, to Federal Agency Civil Rights Directors and General Counsels, Application of *Bostock v. Clayton County* to Title IX of the Education Amendments of 1972 (Mar. 26, 2021), available at <https://www.justice.gov/crt/page/file/1383026/download>.

³ Civil Rights Division, U.S. Department of Justice, Title IX Legal Manual, Title IX Cover Addendum post-Bostock, available at <https://www.justice.gov/file/1423496/download>.

⁴ U.S. Department of Education, Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, Notice of Interpretation, 86 FR 32637 (June 22, 2021).

⁵ *See, e.g., Grimm*, 972 F.3d at 617–18 (describing injuries to a transgender boy’s physical and emotional health as a result of denial of equal treatment); *Dodds v. U.S. Dep’t of Educ.*, 845 F.3d 217, 221–22 (6th Cir. 2016) (describing “substantial and immediate adverse effects on the daily life and well-being of an eleven-year-old” transgender girl from denial of equal treatment); *Doe v. Univ. of Scranton*, No. 3:19–CV–01486, 2020 WL 5993766, at *1–3 (M.D. Pa. Oct. 9, 2020) (describing harassment and physical targeting of a gay college student that interfered with the student’s educational opportunity); *Harrington v. City of Attleboro*, No. 15–CV–12769–DJC, 2018 WL 475000, at *6–7 (D. Mass. Jan. 17, 2018) (describing “‘widespread peer harassment’ and physical assault [of a lesbian high school student] because of stereotyping animus focused on [the student’s] sex, appearance, and perceived or actual sexual orientation”).

(rain date April 17, 2022) from potential hazards during a fireworks display occurring as a part of the National Cherry Blossom Festival. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 7:30 p.m. on April 16, 2022, through 9:30 p.m. on April 17, 2022. This rule will be enforced from 7:30 p.m. through 9:30 p.m. on April 16, 2022, or those same hours on April 17, 2022, in the case of inclement weather on April 16, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2022–0212 in the “SEARCH” box and click “SEARCH.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email MST3 Melissa Kelly, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2596, email Melissa.C.Kelly@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 impracticable and contrary to the public interest to do so. We must establish this safety zone by April 16, 2022, to protect the public from hazards associated with the fireworks event. Hazards include explosive materials, dangerous projectiles, and falling debris. The fireworks fall out zone extends across the navigable channel.

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**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port, Maryland-National Capital Region (COTP) has determined that potential hazards associated with the fireworks to be used in the April 16, 2022 display will be a safety concern for anyone near the fireworks barge. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 7:30 p.m. on April 16, 2022, through 9:30 p.m. on April 17, 2022. The rule will be enforced from 7:30 p.m. through 9:30 p.m. on April 16, 2022, or in the event of inclement weather on April 16, those same hours on April 17, 2022. The safety zone covers all navigable waters of the Anacostia River within 500 feet of the fireworks barge in approximate position latitude 38°52′15.39″ N, longitude 77°00′09.39″ W, located near Nationals Park in Washington, DC. The size of the zone and duration of the rule are intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the scheduled fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a

“significant regulatory action” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, duration, and time-of-day of the safety zone, which will impact a small designated area of the Anacostia River for no more than 4 enforcement-hours during evening hours when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

E. 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that 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 involves a safety zone that will be enforced for 3 hours that will prohibit entry within a portion of the Anacostia River. It is categorically

excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

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: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

- 2. Add § 165.T05–0212 to read as follows:

§ 165.T05–0212 Safety Zone; Anacostia River, Washington, DC.

(a) *Location.* The following area is a safety zone: All navigable waters of the Anacostia River within 500 feet of the fireworks barge in approximate position latitude 38°52′15.39″ N, longitude 77°00′09.39″ W located near Nationals Park, in Washington, DC. These coordinates are based on datum NAD 83.

(b) *Definitions.* As used in this section—

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

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

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this

section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

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

(e) *Enforcement period.* This section will be enforced from 7:30 p.m. to 9:30 p.m. on April 16, 2022, or in the event of inclement weather, from 7:30 p.m. through 9:30 p.m. on April 17, 2022.

Dated: April 1, 2022.

David E. O'Connell,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2022–07403 Filed 4–6–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2021–0411; FRL–9547–02–R5]

Air Plan Approval; Minnesota; Bulk Silos PM₁₀ FESOP Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a site-specific revision to the Minnesota State Implementation Plan (SIP) for particulate matter less than 10 microns (PM₁₀) for the portland cement distribution terminal owned and operated by Bulk Silos, LLC (Bulk Silos), formerly known as Lafarge North America Corporation on Childs Road Terminal (Lafarge-Childs Road Terminal), located in Saint Paul, Ramsey County, Minnesota. In its June 16, 2021, submittal, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve certain conditions contained in Bulk Silos' federally enforceable state operating permit (FESOP) into the Minnesota PM SIP. The request is approvable because it satisfies the requirements of the Clean Air Act (CAA). MPCA's submission