

itself. Section 3(b) does not speak to that delay.¹⁰

In sum, my colleagues have failed to provide a persuasive reason for staying the effective date of the unit-scope-and-eligibility and 20-days rules. I favor allowing these rules to take effect just as soon as the D.C. Circuit issues mandate. Accordingly, from the majority's final rule, I dissent.

Dated: March 6, 2023.

Roxanne L. Rothschild,
Executive Secretary.

[FR Doc. 2023-04839 Filed 3-9-23; 8:45 am]

BILLING CODE 7545-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2023-0163]

RIN 1625-AA00

Safety Zone; Missouri River Mile Markers 175.5–176.5, Jefferson City, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters in the Missouri River at Mile Marker (MM) 175.5 to 176.5. The safety zone is needed to protect personnel, vessels, and the marine environment from all potential hazards associated with electrical line work. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative.

DATES: This rule is effective from March 13, 2023, until March 24, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0163 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 on this rule, call or email MSTC Nathaniel Dibley, Sector Upper Mississippi River Waterways

Management Division, U.S. Coast Guard; telephone 314-269-2550, email Nathaniel.D.Dibley@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of The Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
MM Mile marker
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. We must establish this temporary safety zone immediately to protect personnel, vessels, and the marine environment from potential hazards created by the electrical work and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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 this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the ongoing construction work.

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 Sector Upper Mississippi River (COTP) has determined that potential hazards associated with electrical line work will be a safety concern for anyone operating or transiting within the Missouri River from MM 175.5–176.5. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while electrical line work is being conducted.

IV. Discussion of the Rule

Electrical line work will be occurring near MM 175.5–176.5 beginning March 13, 2023. The safety zone is designed to protect waterway users until work is complete.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River. To seek permission to enter, contact the COTP or a designated representative via VHF-FM channel 16, or through USCG Sector Upper Mississippi River at 314-269-2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in the size of the safety zone as conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB), as appropriate.

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 a safety zone located on the Missouri River at MM 175.5–176.5, near Jefferson City, MO. The Safety Zone is expected to be active only during the hours of 9 a.m. through 4 p.m., or only when work is being conducted, every day until March 24, 2023.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended,

¹⁰ As stated above, the court of appeals found that the ballot-impoundment provision in the 2019 Rule is contrary to Sec. 3(b). That provision, however, is expressly triggered only when a party *files a request for review* within ten business days of the issuance of the direction of election and when certain other conditions are met.

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 because the zone will be enforced only when work is being conducted.

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 encompassing the width of the Upper Mississippi River at MM 139.5–139.2. 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, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T08–0163 to read as follows:

§ 165.T08–0163 Safety Zone; Missouri River, Mile Markers 175.5–176.5, Jefferson City, MO.

(a) *Location.* The following area is a safety zone: all navigable waters within Missouri Mile Markers (MM) 175.5–176.5.

(b) *Enforcement period.* This section will be subject to enforcement from March 13, 2023, through March 24, 2023.

(c) *Regulations.* (1) In accordance with the general safety zone regulations in § 165.23, entry of persons or vessels into this safety zone described in paragraph (a) of this section is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size or scope of the safety zone as ice or flood conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB) as appropriate.

Dated: March 3, 2023.

A.R. Bender,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2023-04865 Filed 3-9-23; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-HQ-OAR-2021-0663; EPA-R02-OAR-2021-0673; EPA-R03-OAR-2021-0872; EPA-R03-OAR-2021-0873; EPA-R04-OAR-2021-0841; EPA-R05-OAR-2022-0006; EPA-R06-OAR-2021-0801; EPA-R07-OAR-2021-0851; EPA-R08-OAR-2022-0315; EPA-R09-OAR-2022-0394; EPA-R09-OAR-2022-0138; FRL-10209-02-OAR]

Air Plan Disapprovals; Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting a final rule that appeared in **Federal Register** on Monday, February 13, 2023, which finalized the disapproval of State Implementation Plan (SIP) submissions for 19 states and the partial approval and partial disapproval of elements of the SIP submission for two states regarding interstate transport obligations for the 2015 8-hour ozone national ambient air quality standards (NAAQS). This document corrects an error in an amendatory instruction that appeared in the regulatory text portion of the final rule. This error and its correction are unrelated to the final rule.

DATES: This correction is effective on March 15, 2023.

FOR FURTHER INFORMATION CONTACT:

General questions concerning this document should be addressed to Mr. Thomas Uher, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539-04, 109 TW Alexander Drive, Research Triangle Park, NC 27711; telephone number: (919) 541-5534; email address: uher.thomas@epa.gov.

SUPPLEMENTARY INFORMATION: The EPA is removing an unrelated amendatory instruction in its final rule, FRL-10209-01-OAR, published February 13, 2023 (88 FR 9336). Amendatory instruction 20 is corrected by removing instruction “20a.” and designating instruction “20b.” as the full instruction 20.

Correction

In FR Doc. 2023-02407, appearing on page 9336 in the **Federal Register** of Monday, February 13, 2023 (88 FR 9336), the following correction is made:

1. On page 9384, in the second column, amendatory instruction 20 is correctly revised to read as follows:

“20. Section 52.2275 is amended by adding paragraph (o) to read as follows:”.

Joseph Goffman,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2023-04814 Filed 3-9-23; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-HQ-OAR-2017-0355; FRL-10477-01-OAR]

RIN 2060-AV88

Delay of Submittal Date for State Plans Required Under the Affordable Clean Energy Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; delay of state plan submittal dates.

SUMMARY: This action extends until April 15, 2024, the deadline for state plans required to be submitted under the Clean Air Act (CAA) in accordance with the Affordable Clean Energy (ACE) rule.

DATES: This regulation is effective March 10, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2017-0355. All documents in the docket are listed on the <https://www.regulations.gov/> website. Although listed, some information is not publicly available, e.g., 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 electronically through <https://www.regulations.gov/>.

FOR FURTHER INFORMATION CONTACT: For questions about this document contact Mr. Nicholas Swanson, Sector Policies and Programs Division (D243-02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle

Park, North Carolina 27711; telephone number: (919) 541-4080; email address: swanson.nicholas@epa.gov.

SUPPLEMENTARY INFORMATION: The EPA is taking this final action without providing an opportunity for public comment, based on the good cause exception in section 553(b)(3)(B) of the Administrative Procedure Act (APA). The Agency has determined that seeking public comment is impracticable, unnecessary, or contrary to the public interest. The deadline for state plan submission has already passed, which necessitates an extension, and it is important that the EPA grant that extension as soon as possible to avoid confusion and uncertainty among states and regulated industry as to what their obligations are.

I. Background and Extension of Deadlines

On July 8, 2019, the EPA promulgated the Affordable Clean Energy (ACE) rule, under CAA section 111(d) (84 FR 32520, July 8, 2019). The ACE rule is an emissions guideline that directs states to develop plans that establish standards of performance for carbon dioxide (CO₂) emissions from existing coal-fired electricity generating units. The ACE rule repealed and replaced the Clean Power Plan, which the EPA had promulgated in 2015 (80 FR 64662, October 23, 2015).

Under CAA section 111(d)(1), the standards of performance in such a state plan are required to achieve an amount of emission reduction that the EPA determines can be achieved through application by the sources of what the EPA determines to be the “best system of emission reduction . . . adequately demonstrated” (BSER) for reducing emissions of the pollutant in question from the sources in question. CAA section 111(a)(1). The ACE rule required states to submit plans to the EPA that establish standards of performance within three years of the date that the rule was published, that is, by July 8, 2022 (40 CFR 60.5745a).

Numerous state and municipal governments, power utilities, renewable energy trade associations, public health and environmental advocacy groups, and other parties filed petitions to review the ACE rule before the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit).

On January 19, 2021, following briefing and oral argument, the D.C. Circuit issued a decision vacating the ACE rule. *American Lung Ass’n v. EPA*, 985 F.3d 914 (D.C. Cir. 2021). The court based the vacatur on its holding that the ACE rule’s underlying legal interpretation, which was that CAA