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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Honolulu 01-047]

RIN 2115-AA97

Safety Zone; Japanese Fisheries High School Training Vessel EHIME MARU Relocation and Crew Member Recovery, Pacific Ocean, South Shores of the Island of Oahu, HI

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish four temporary safety zones south of Oahu, Hawaii to protect vessels and mariners from the hazards associated with vessel relocation and crew member recovery operations of the Japanese Fisheries High School Training Vessel EHIME MARU, which sank after being struck by the submarine USS GREENEVILLE (SSN 772). Entry into these zones will be prohibited unless authorized by the Captain of the Port Honolulu, HI.

DATES: Comments and related material must reach the Coast Guard on or before July 30, 2001.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Marine Safety Office Honolulu, 433 Ala Moana Boulevard, Honolulu, HI, 96813, who maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Marine Safety Office Honolulu between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Mark Willis, U.S. Coast Guard Marine Safety Office Honolulu, Hawaii at (808) 522-8260.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and

address, identify the docket number for this rulemaking [COTP Honolulu 01-047], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know your comments reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them. We are providing a 30-day comment period on this proposal so that we can seek public input on the proposed safety zones and still publish the final rule before the start of the vessel relocation and crew member recovery operation. We anticipate the rule will be effective less than 30 days after its publication in the **Federal Register**.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to U.S. Coast Guard Marine Safety Office Honolulu, HI, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On February 9, 2001, the Japanese Fisheries High School Training Vessel EHIME MARU was struck by the submarine USS GREENEVILLE (SSN 772) approximately 9 nautical miles south of Diamond Head on the island of Oahu, Hawaii. The EHIME MARU sank in approximately 2,000 feet of water. At the time of the sinking, 26 of the 35 crewmembers were successfully rescued. An extensive search failed to locate additional personnel and it is assumed that some, or all, of the nine missing crewmembers were trapped inside the vessel. The EHIME MARU is resting upright on the seafloor at position 21°-04.8'N, 157°-49.5'W. The U.S. Navy plans to recover crewmembers, personal effects, and certain unique characteristic components from the EHIME MARU. In its present location, the vessel is beyond diver capability to safely conduct recovery operations. Therefore, the current recovery plan calls for use of a specially equipped offshore construction vessel to lift the EHIME MARU from the bottom and transport the vessel to a shallow water work site. The EHIME MARU would then be

placed back on the seafloor, in approximately 115 feet of water, where Navy divers would enter the hull and attempt to recover crewmembers, personal effects, and uniquely characteristic components found inside. To limit the impact on the marine environment, diesel fuel, lubricating oil, loose debris, and any other hazardous materials will be removed to the maximum extent practicable at the shallow water work site. The hull will then be lifted back off the ocean floor and moved to a deep water relocation site approximately 13 nautical miles south of Barbers Point on the island of Oahu, Hawaii. To support the vessel relocation and crew member recovery operation, the Coast Guard proposes to establish safety zones as follows:

1. A fixed safety zone, with a radius of 1 nautical mile, centered at 21°-04.8'N, 157°-49.5'W; the present location of the EHIME MARU.
2. A moving safety zone, with a radius of 1 nautical mile, will be in effect during the transit of the EHIME MARU and associated recovery vessels from the present location of the EHIME MARU to the shallow water work site, located within the Naval Defensive Sea Area at approximate position 21°-17.5'N, 157°-56.4'W.
3. A moving safety zone, with a radius of 1 nautical mile, will be in effect during transit of the EHIME MARU and associated recovery vessels from the shallow water work site to the deep water relocation site at approximate position 21°-05.0'N, 157°-07.0'W.
4. A fixed safety zone, with a radius of 1 nautical mile, centered at the coordinates of the deep water relocation site, will be in effect until the EHIME MARU is placed back on the ocean floor. The portion of the safety zone extending beyond the territorial boundary is advisory only.

The safety zones would be enforced sequentially, the exact dates will be dependent on the phase of the operation. The safety zones would become effective at the beginning of August, 2001, and would remain in effect until the operation, which will take about 3½ months, ends in mid-November. The purpose of these safety zones is to protect vessels and mariners from hazards associated with vessel relocation and crew member recovery operations of the Japanese Fisheries High School Training Vessel EHIME MARU. Since oil spills may result due to damaged and ruptured fuel tanks, the safety zone would also protect vessels and mariners from the hazards of any pollution response operations that may be necessary. Entry into these safety zones will be prohibited unless

authorized by the Captain of the Port Honolulu, HI. The safety zones will be enforced by representatives of the Captain of the Port Honolulu. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The U.S. Coast Guard expects the economic impact of this action to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the short duration of the zone and the limited geographic area affected by it.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 U.S. Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities. No small business impacts are anticipated due to the small size of the zones and the short duration of the safety zones in any one area. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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

The U.S. Coast Guard has analyzed this rule under Executive Order 13132, and has determined this proposed rule

does not have implications for federalism under that Order.

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

Indian Tribal Governments

This proposed 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.

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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The U.S. Coast Guard considered the environmental impact of this action and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. From August 1, 2001, to November 15, 2001, new § 165.T14–047 is temporarily added to read as follows:

§ 165.T14–047 Safety zone: Japanese fisheries high school training vessel EHIME MARU relocation and crew member recovery, Pacific Ocean, south shores of the Island of Oahu, Hawaii.

(a) *Location.* The following areas are safety zones. All coordinates reference 1983 North American Datum (NAD83).

(1) At the current location of the Japanese Fisheries High School Training Vessel EHIME MARU, all waters from the surface of the ocean to the bottom within a 1 nautical mile radius centered at 21°–04.8′N, 157°–49.5′W.

(2) All waters from the surface of the ocean to the bottom within a 1 nautical mile radius of the recovery vessels while enroute between the current location at 21°–04.8′N, 157°–49.5′W, to the shallow water recovery site at 21°–17.5′N, 157°–56.4′W.

(3) All waters from the surface of the ocean to the bottom within a 1 nautical mile radius of the recovery vessels while enroute between the shallow water work site at 21°–17.5′N, 157°–56.4′W, to the deep water relocation site at 21°–05.0′N, 157°–07.0′W.

(4) All waters from the surface of the ocean to the bottom within a 1 nautical mile radius centered at 21°–05.0′N, 157°–07.0′W, except those waters extending beyond the territorial seas.

(b) *Designated representative.* A designated representative of the U.S. Coast Guard Captain of the Port is any U.S. Coast Guard commissioned, warrant, or petty officer that has been authorized by the U.S. Coast Guard Captain of the Port, Honolulu, to act on his behalf. The following officers have or will be designated by the Captain of the Port Honolulu: The senior U.S. Coast Guard boarding officer on each vessel enforcing the safety zone.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into these zones is prohibited unless authorized by the U.S. Coast Guard Captain of the Port or his designated representatives. The Captain of the Port Honolulu will grant general

permissions to enter the zones via Broadcast Notice to Mariners.

(d) *Effective dates.* This section is effective from the beginning of August 2001 [date to be inserted in final rule] until the operation ends in mid-November 2001 [date to be inserted in final rule]. The public will be notified of the exact dates for enforcement of the various zones by Broadcast Notice to Mariners.

Dated: June 19, 2001.

G.J. Kanazawa,

Captain, U.S. Coast Guard, Captain of the Port Honolulu.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL208-1, IL209-1; FRL-7003-8]

Approval and Promulgation of Implementation Plans; Illinois NO_x Regulations

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: On April 9, 2001, and May 1, 2001, Illinois submitted adopted rules to reduce emissions of nitrogen oxides (NO_x) from cement kilns and from industrial boilers and turbines, respectively. Illinois adopted these rules to help meet the NO_x emission budget as required under USEPA's NO_x State Implementation Plan (SIP) Call as well as to help attain the 1-hour ozone standard in the Chicago area.

USEPA proposes to approve these two sets of rules. These rules are similar to and satisfy the requirements of USEPA's sample rules. Illinois' rules include language mandated by the Illinois legislature making the compliance deadline contingent on Federal enforceability of similar rules in other nearby states. However, the legislature has recently reversed its prior mandate and established a fixed compliance deadline of May 31, 2004.

On June 18, 2001, Illinois submitted a budget demonstration, reflecting the impact of the rules on cement kilns and industrial boilers and turbines in conjunction with previously submitted rules on electricity generating units. The submittal justifies two minor inventory revisions, adding one source and deleting another source from the list of regulated industrial sources. Illinois' submittal shows that its rules will achieve the revised budget of acceptable

2007 NO_x emission levels. USEPA concurs with the inventory revisions and proposes to approve Illinois' budget demonstration.

USEPA has previously proposed to approve Illinois' rules for electricity generating units, provided Illinois established a fixed compliance deadline. With today's action, USEPA has proposed to approve all of the regulations needed to achieve the budgeted 2007 NO_x emission levels and to meet USEPA's associated requirements. Therefore, USEPA proposes to conclude that Illinois has satisfied all requirements of USEPA's NO_x SIP Call.

DATES: Written comments on this proposed rule must be received on or before July 30, 2001.

ADDRESSES: Send comments to: J. Elmer Bortzer, Chief, Regulation Development Section (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the State's submittal are available for inspection at the following address: (We recommend that you telephone John Summerhays at 312-886-6067, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, summerhays.john@epa.gov, 312-886-6067.

SUPPLEMENTARY INFORMATION: In the following text, the terms "we," "us," or "our" refer to USEPA. This notice is organized according to the following table of contents:

I. Background

- A. What is USEPA's "NO_x SIP Call"?
- B. What requirements must Illinois meet?

II. Summary of Illinois Submittals

- A. Overview of Pertinent Submittals
 1. What are the elements of Illinois' NO_x emission control program?
 2. What submittals has Illinois made?
 3. What are USEPA's plans for rulemaking on Subpart X?
- B. Cement Kiln Rules (Subpart T)
 1. When was the cement kiln NO_x emission control rule submitted to USEPA?
 2. When must sources reduce emissions?
 3. What are the basic components of the State's rule?
 4. Will affected sources be allowed to participate in the NO_x emissions trading program?
 5. What public review opportunities were provided?

C. Industrial Boiler Rules (Subpart U)

1. What do the industrial boiler rules require?
2. What sources are subject to these rules?
3. What are the special provisions of these rules?
4. How much emission reduction do these rules achieve?

D. Budget Demonstration

III. USEPA Review

A. Cement Kiln Rules (Subpart T)

1. What guidance did USEPA use to evaluate the State's rule?
 2. Can USEPA approve Illinois' cement kiln rules?
- ##### B. Industrial Boiler Rules (Subpart U)
1. Can USEPA approve the general approach?
 2. Can USEPA approve the new source set-aside features?
 3. Can USEPA approve the early reduction credit features?
 4. Can USEPA approve the low emitter exemption features?
 5. Can USEPA approve the opt-in features?
 6. In summary, can USEPA approve Illinois' industrial boiler rules?

C. Budget Demonstration

1. Does USEPA accept Illinois' recommended budget revisions?
2. Do Illinois' rules satisfy USEPA's budget?

IV. Proposed Action

V. Administrative Requirements

I. Background

A. What Is USEPA's "NO_x SIP Call"?

On October 27, 1998, the USEPA promulgated a regulation known as the NO_x SIP Call for numerous States, including the State of Illinois. The NO_x SIP Call requires the subject States to develop NO_x emission control regulations sufficient to provide for a prescribed NO_x emission budget in 2007.

Preceding the promulgation of USEPA's NO_x SIP Call was extensive discussions of transport of ozone in the Eastern United States. The Environmental Council of States (ECOS) recommended the formation of a national workgroup to assess the problem and to develop a consensus approach to addressing the transport problem. As a result of ECOS' recommendation and in response to a March 2, 1995 USEPA memorandum, the Ozone Transport Assessment Group (OTAG) was formed to conduct regional ozone transport analyses and to develop a recommended ozone transport control strategy. OTAG was a partnership among USEPA, the 37 eastern States and the District of Columbia, and industrial, academic, and environmental groups. OTAG was given the responsibility of conducting the two years of analyses envisioned in the March 2, 1995 USEPA memorandum.

OTAG conducted a number of regional ozone data analyses and