

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2008-0392]

RIN 1625-AA08

Special Local Regulations for Marine Events; Patapsco River, Inner Harbor, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the "Pride of Baltimore Recycled Regatta", a marine event to be held August 2, 2008 on the waters of the Patapsco River, Inner Harbor, Baltimore, MD. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Baltimore Inner Harbor during the event.

DATES: This rule is effective from 2:30 p.m. to 9:30 p.m. on August 2, 2008.

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-2008-0392 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: 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 and the Fifth Coast Guard District office, 431 Crawford Street, Portsmouth, VA 23704 between 10 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Dennis Sens, Project Manager, Fifth Coast Guard District, Inspections and Investigations Branch, at (757) 398-6204. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 2, 2008, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Patapsco River, Inner

Harbor, Baltimore, MD in the **Federal Register** (73 FR 31394). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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 would be contrary to public interest, because immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area. However advance notification will be made to users of the Patapsco River, Baltimore Inner Harbor, via marine information broadcasts, Local Notice to Mariners, commercial radio stations and local area newspapers.

Background and Purpose

On August 2, 2008, Pride of Baltimore, Inc. will sponsor "Pride of Baltimore Recycled Regatta" at the Inner Harbor in Baltimore, MD. The event will consist of approximately 30 boats built from recycled materials attempting to traverse a designated course that extends over the water immediately adjacent to the southwest corner of the promenade surrounding the Baltimore Inner Harbor. The regulated area originates at the southwest corner of the Inner Harbor adjacent to the Maryland Science Center and extends outward over the water within an approximately 150 yard arc. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Patapsco River, Inner Harbor, Baltimore, MD.

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 regulation will prevent traffic from transiting a portion of the Baltimore Inner Harbor during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic may be able to transit the regulated area at slow speed when event activity is halted, when the Coast Guard Patrol Commander deems it is safe to do so.

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 temporary rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the effected portion of the Baltimore Inner Harbor during the event.

Although this regulation prevents traffic from transiting a small segment of the Baltimore Inner Harbor during the event, this rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This temporary rule would be in effect for only a limited period. Vessel traffic may be able to transit the regulated area when event activity is halted, when the Coast Guard Patrol Commander deems it is safe to do so. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could 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 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.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.1D, 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 under the Instruction 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)(h.), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(h.), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

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—REGATTAS AND MARINE PARADES

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.T05–0392 to read as follows:

§ 100.T05–0392 Patapsco River, Inner Harbor, Baltimore, MD.

(a) *Definitions:* The following definitions apply to this section:

(1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore to act on his behalf.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Pride of Baltimore Recycled Regatta under the auspices of a Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(4) *Regulated area* includes the waters of the Patapsco River, Baltimore, MD, Inner Harbor within the immediate vicinity of the southwest corner of the harbor adjacent to the Maryland Science Center. The area is bounded on the south and west by the shoreline promenade, bounded on the north by a line drawn along latitude 39°16'58" North and bounded on the east by a line drawn along longitude 076°36'36.5" West. All coordinates reference Datum NAD 1983.

(b) *Special local regulations:* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the event area.

(c) *Effective period.* This section will be enforced from 2:30 p.m. to 9:30 p.m. on August 2, 2008.

Dated: July 15, 2008.

Fred M. Rosa, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E8-17055 Filed 7-24-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2008-0109; FRL-8694-8]

Determination of Attainment for the Ozone National Ambient Air Quality Standards for Nonattainment Areas in Delaware, District of Columbia, Maryland, Pennsylvania, and Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has determined that two severe 1-hour ozone nonattainment areas, Philadelphia-Wilmington-Trenton, and the Metropolitan Washington, DC, attained the 1-hour ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date of November 15, 2005. EPA has also determined that these areas are not subject to the imposition of the penalty fees under section 185 of

the Clean Air Act (CAA). These determinations of attainment are not a redesignation to attainment for these severe areas for which air quality monitoring data indicates attainment of the standard. EPA is issuing this final action to fulfill obligations to make such determinations under the CAA.

DATES: *Effective Date:* This final rule is effective on August 25, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2008-0109. All documents in the docket are listed in the <http://www.regulations.gov> Web site. 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 <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.

FOR FURTHER INFORMATION CONTACT:

Christopher Cripps, (215) 814-2179, or by e-mail at cripps.christopher@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” and “our” refer to EPA.

I. Background

On April 28, 2008, (73 FR 22896), EPA published a notice of proposed rulemaking (NPR) for these actions. The NPR proposed to determine that two severe 1-hour ozone nonattainment areas, Philadelphia-Wilmington-Trenton, and Metropolitan Washington, DC, attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005, and, proposed to find that these areas are not subject to the imposition of the penalty fees under section 185 of the CAA. These proposals were based on three years of complete, quality-assured ambient air quality monitoring data for 2003 through 2005 ozone seasons. These proposed determinations of attainment were not a redesignation to attainment for these severe areas for which air quality monitoring data indicates attainment of the standard.

We received two letters supporting the proposed actions and received no adverse public comments on the NPR. The background for this action, the requirements of section 185 of the CAA,

and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

The geographic boundaries of each nonattainment area affected by this action can be found in the NPR (73 FR 22896 at 22896-22897, April 28, 2008). *See also*, the tables entitled “Ozone (1-Hour Standard)” in the following sections of 40 CFR part 81: §§ 81.308, 81.309, 81.321, 81.339 and 81.347 for Delaware, the District of Columbia, Maryland, Pennsylvania, and Virginia, respectively. Note that for each State the codification of these determinations in 40 CFR part 52 the name of the 1-hour severe ozone nonattainment area used is the name of that area as it appears in the table entitled “Ozone (1-Hour Standard)” in 40 CFR part 81 for that State.

II. Final Action

A. Philadelphia Area

Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Philadelphia-Wilmington-Trenton, severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that this area is not subject to the imposition of the section 185 penalty fees.

B. Washington Area

Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Metropolitan Washington, DC, severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that this area is not subject to the imposition of the section 185 penalty fees.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 Fed. Reg. 28355 (May 22, 2001)). This final action determines that two areas have attained a previously-established NAAQS based on an objective review of measured air quality data and imposes no additional requirements. Accordingly, the Administrator certifies that these final