

FDC date	State	City	Airport	FDC number	Subject
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[FR Doc. 06-740 Filed 1-26-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-05-142]

RIN 1625-AA00

Safety Zone; Chicago Sanitary and Ship Canal, Romeoville, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Chicago Sanitary and Ship Canal on the Illinois Waterway near Romeoville, Illinois. This safety zone is necessary to close the Chicago Sanitary and Ship Canal during safety testing of the permanent electrical dispersal barrier. This safety zone intended to restrict vessels from a portion of the Canal in Romeoville, IL, at various times over a 45 day period.

DATES: This rule is in effect during intermittent periods, as announced via Broadcast Notice to Mariners, from 7 a.m. (local) on January 30, 2006 until 7 a.m. (local) on February 28, 2006. Captain of the Port Lake Michigan or his on scene representative will inform mariners of enforcement periods via Broadcast Notice to Mariners.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of the docket (CGD09-05-142), and are available for inspection or copying at Commanding Officer, U.S. Coast Guard Marine Safety Unit Chicago, 215 W. 83rd Street Suite D, Burr Ridge, IL, 60527, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST1 Kenneth Brockhouse, U.S. Coast Guard, Marine Safety Unit Chicago, at (630) 986-2155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this

regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This safety zone is temporary in nature and limited time existed for an NPRM. The Coast Guard was not made aware that this operation was to take place with sufficient time to allow for publication of an NPRM followed by a final 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 impracticable and immediate action is necessary to ensure the safety of personnel and vessels during the operational period. During the enforcement of this safety zone, comments will be accepted and reviewed and may result in a modification to the rule.

Background and Purpose

A temporary electrical dispersal barrier is in operation at mile marker 296.5 on the Chicago Sanitary Ship Canal to prevent Asian Carp from entering Lake Michigan.

A second permanent electrical dispersal barrier is being constructed and operational and safety testing must be completed prior to placing the permanent barrier in service. Also, additional safety tests need to be conducted for the temporary electrical dispersal barrier. These tests are scheduled to commence in January 2006. As such, the Captain of the Port Lake Michigan has determined that intermittent closures of the Chicago Sanitary and Ship Canal are necessary to ensure the integrity of the operational and safety tests, as well as the safety of the testing crews. Closures will occur between January 30, 2006 and February 28, 2006. Mariners will be notified of enforcement periods by Broadcast Notice to Mariners. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on scene representative via VHF-FM radio Channel 16.

Discussion of Rule

Operational and safety tests are required to determine the electrical parameters of the permanent electrical dispersal barrier, and to evaluate the health and safety risks of the electrical fields generated by both barriers in this

portion of the Chicago Sanitary and Ship Canal. Restricting vessel movement through this portion of the Canal is necessary to ensure accurate test results, and to protect the equipment and crews conducting the tests.

The safety zone will encompass all waters of the Chicago Sanitary and Ship Canal from the Romeo Road Bridge at Mile Marker 296.1 to the aerial pipeline arch at Mile Marker 296.7. All commercial and recreational vessels will be prohibited from entering the zone during enforcement periods. Enforcement periods will be announced via Broadcast Notice to Mariners. Vessels may contact the Coast Guard via VHF-FM radio Channel 16 to request permission to transit through the safety zone.

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. 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 Homeland Security (DHS).

We expect the economic impact of this established rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This finding is based on the relatively small percentage of vessels that would fall within the applicability of the regulation, the relatively small size of the limited area around the zone, the minimal amount of time that vessels will be restricted when the zone is being enforced. In addition, vessels that will need to enter the zone may request permission on a case-by-case basis from the Captain of the Port or the designated on-scene representative.

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 rule may affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit through the safety zone in and around the area.

This rule would not have a significant impact on a substantial number of small entities because the restrictions affect only a limited area for a brief amount of time as this safety zone is effective only when operations are underway. Further, transit through the zone may be permitted with proper authorization from the Captain of the Port Lake Michigan or his designated representative. Additionally, the opportunity to engage in recreational activities outside the limits of the safety zone will not be disrupted.

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.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), 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 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 1–800–734–3247.

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.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

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 § 165.T09–142 to read as follows:

§ 165.T09–142 Safety Zone; Chicago Sanitary and Ship Canal, Romeoville, IL.

(a) *Location.* The following is a safety zone: All waters, bank-to-bank, from the Romeo Road Bridge at Mile Marker 296.1 to the aerial pipeline arch at Mile Marker 296.7 on Chicago Sanitary and Ship Canal.

(b) *Effective time and date.* This rule is in effect from 7 a.m. (local) on January 30, 2006 until 7 a.m. (local) on February 28, 2006. Enforcement periods will be announced via Broadcast Notice to Mariners. Captain of the Port Lake Michigan or the on scene representative may terminate this operation at anytime.

(c) *Regulations.* In accordance with § 165.23, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Lake Michigan, or the designated on-scene representative. Section 165.23 also contains other general requirements.

Dated: January 11, 2006.

S.P. LaRochelle,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 06–768 Filed 1–26–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2005–IN–0007; FRL–8025–6]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Removal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Removal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the EPA is removing the November 25, 2005 (70 FR 70999), direct final rule approving revisions to Indiana's sulfur dioxide (SO₂) state implementation plan (SIP) for sources located in Dearborn County. These revisions to the SIP include: Revising SO₂ emission limits for existing sources,

making minor corrections by removing obsolete rule language, and updating information for sources listed in the rule. In the direct final rule, EPA stated that if adverse comments were submitted by December 27, 2005, the rule would be withdrawn and not take effect. On December 2, 2005, EPA received a comment. EPA believes this comment is adverse and, therefore, EPA is removing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on November 25, 2005 (70 FR 71071). EPA will not institute a second comment period on this action.

DATES: This rule is effective on January 27, 2006.

FOR FURTHER INFORMATION CONTACT:

Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, hatten.charles@epa.gov.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 18, 2006.

Norman Niedergang,

Acting Regional Administrator, Region 5.

■ Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart P—Indiana

§ 52.770 [Amended]

■ 2. Section 52.770 is amended by removing paragraph (c)(171).

[FR Doc. 06–757 Filed 1–26–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM–4–1–5208a; FRL–8025–5]

Approval and Promulgation of Implementation Plans; New Mexico, Visibility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the New Mexico State Implementation Plan (SIP). This revision satisfies the New Source Review (NSR) and monitoring plan requirements for visibility, otherwise known as the “Phase I, Part I Visibility SIP.” In addition, this revision includes the implementation control strategies, integral vistas protection, and long term strategies, otherwise known as the “Phase I, Part II Visibility SIP.” Lastly, EPA is removing the SIP disapprovals associated Phase I, Parts I and II, and the resultant Federal Implementation Plans (FIPs).

DATES: This rule is effective on March 28, 2006 without further notice, unless EPA receives adverse comment by February 27, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by File ID No. NM–4–1–5208, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- U.S. EPA Region 6 “Contact Us”

Web site: <http://epa.gov/region6/r6coment.htm>. Please click on “6PD” (Multimedia) and select “Air” before submitting comments.

- E-mail: Mr. Thomas Diggs at diggs.thomas@epa.gov. Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Please include the text “Public comment on File ID No. NM–4–1–5208” in the subject line of the first page of your comments. EPA’s policy is that all comments received will be included in the public file without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information

Instructions: Please include the text “Public comment on File ID No. NM–4–1–5208” in the subject line of the first page of your comments. EPA’s policy is that all comments received will be included in the public file without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information