

#### D. Federalism and Indian Tribal Government

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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further

review, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.

#### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this notice, and all public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.671 to read as follows:

#### § 117.671 Upper Mississippi River.

(a) The draws of all bridges between Lock and Dam No. 14, mile 493.3, and Lock and Dam No. 2, mile 815.2, shall open on signal; except that, from on or about December 15 through the last day of February, the draws shall open on signal if at least 24 hours notice is given.

(b) The draws of all bridges between Lock and Dam No. 2, mile 815.2 and Lock and Dam No. 1, mile 847.6, shall open on signal; except that, from on or about December 15 through the last day of February, the draws shall open on signal if at least 12 hours notice is given.

Dated: December 22, 2016.

**D.R. Callahan,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 2016–31893 Filed 1–3–17; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2016–1019]

RIN 1625–AA00

#### Safety Zone; Apra Harbor, Guam

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise the existing safety zones currently in effect at Naval Wharf Kilo in Apra Outer Harbor, Guam, by adding a 500-yard permanent safety zone, hereinafter referred to as Safety Zone D, to provide a buffer between the explosives regularly handled on Naval Wharf Kilo, and the general public and maritime operators. The addition of Safety Zone D would also reduce the frequency of enforcement of Safety Zones A and B. This action also eliminates from the regulation the requirement to post a sign when Safety Zones A or B are being

enforced; during such enforcement periods, notification will occur via a slight modification of the displayed visual indicators already codified in the existing regulation as well as via a broadcast notice to mariners. This rulemaking will better meet the needs of the community and reduce the frequency that restrictions must be imposed through the addition of a less restrictive permanent safety zone, thereby enhancing the safe and efficient use of Apra Outer Harbor Channel in the vicinity of Naval Wharf Kilo. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before February 21, 2017. Requests for public meetings must be received by the Coast Guard on or before January 30, 2017.

**ADDRESSES:** You may submit comments identified by docket number USCG–2016–1019 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Chief Kristina Gauthier, Sector Guam Waterways Management Division, U.S. Coast Guard; telephone 671–255–4866, email [WWMGuam@uscg.mil](mailto:WWMGuam@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

BNM Broadcast Notice to Mariners  
CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### **II. Background, Purpose, and Legal Basis**

In 1990, Safety Zone B was established around the newly constructed Naval Wharf Kilo. On February 10, 2015, the Coast Guard amended Apra Harbor safety zone regulation in 33CFR 165.1401 to remove the 680-yard permanent safety zone around Naval Wharf Kilo and add two intermittent safety zones, Safety Zones A and B, with arcs of 1,000 and 1,400 yards radius, respectively. Over the past 21 plus months, the Coast Guard has evaluated the effect of these changes and their impact on the waters in and around Naval Wharf Kilo. Based on this evaluation, the Coast Guard has

determined that an additional amendment to 33 CFR 165.1401 providing a 500-yard permanent safety zone around Naval Wharf Kilo is necessary to enhance the safety of the waterway and reduce adverse impacts to the maritime community and general public. This amendment will also reduce the frequency of enforcement of Safety Zones A and B and eliminate from the regulation the requirement to post a sign during the enforcement periods of Safety Zones A or B; during such enforcement periods notification will occur via a slight modification of the displayed visual indicators already codified in the existing regulation as well as via a broadcast notice to mariners.

The purpose of this rulemaking is to ensure the safety of people and vessels in the navigable waters of Apra Outer Harbor within a 500–1,400 yard radius of Naval Wharf Kilo before, during, and after wharf operations. The Coast Guard proposes this rulemaking pursuant to its authority in 33 U.S.C. 1231.

##### **III. Discussion of Proposed Rule**

The COTP proposes to amend 33 CFR 165.1401 to add Safety Zone D, a 500-yard permanent safety zone at Naval Wharf Kilo, to provide a buffer between the explosives regularly handled on Naval Wharf Kilo, and the general public and marine operators. Safety Zone D will greatly reduce the enforcement periods of Safety Zones A and B. Safety zones A and B will be enforced when the COTP determines that reasonable risks to the public exist that may be minimized through zone enforcement. Notification of enforcement of Safety Zones A will be provided via a red (BRAVO) flag by day or single red light by night. Notification of enforcement of Safety Zone B will be provided via 2 red (BRAVO) flags by day or 2 red lights by night. When Safety Zone A or B is enforced, the COTP will also provide notification via a broadcast notice to mariners. Signs stating “Safety Zone A” and “Safety Zone B,” respectively, will not be posted. During enforcement of any safety zone, no vessel or person may enter the zone without the express permission from the COTP or his designated representative. The proposed regulatory amendments appear at the end of this document.

##### **IV. Regulatory Analyses**

This proposed rule was developed 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zones. The implementation of a 500-yard safety zone around Naval Wharf Kilo will drastically minimize the number of days that vessel traffic will be impacted under current parameters for activation of Safety Zone A. Vessel traffic will continue to be permitted to pass through Safety Zones A and B with the permission of the Captain of the Port. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zones.

##### **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 proposed rule would 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 IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

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.

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 proposed 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This proposed rule would 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### 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 proposed rule would not result in such an expenditure, we do discuss the

effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination 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 proposed rule involves the re-establishment of a permanent safety zone around Naval Wharf Kilo and the clarification of visual indicators utilized during the active implementation of Safety Zones A and B. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.

#### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION**

**CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

We plan to hold a public meeting to receive oral comments on this NPRM and will announce the date, time, and location in a separate document published in the **Federal Register**. If you signed up for docket email alerts mentioned in the paragraph above, you will receive an email notice when the public meeting notice is published and placed in the docket.

#### 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 proposes to amend 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. In § 165.1401, add paragraph (a)(3) and revise paragraph (b) to read as follows:

#### § 165.1401 Apra Harbor, Guam—safety zones.

(a) \* \* \*

(3) The following is designated Safety Zone D: The waters of Apra Outer Harbor encompassed within an arc of 500 yards radius centered at the center of Naval Wharf Kilo, located at 13 degrees 26'44.5" N. and 144 degrees 37'50.7" E. (Based on World Geodetic System 1984 Datum).

(b) *Regulations.* (1) Safety Zone A, described in paragraph (a) of this

section, will only be enforced when Coast Guard Sector Guam issues a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone and Naval Wharf Kilo, and a vessel berthed at Naval Wharf Kilo, is displaying a red (BRAVO) flag by day or a red light by night.

(2) Safety Zone B described in paragraph (a) of this section will only be enforced when Coast Guard Sector Guam issues a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone and Naval Wharf Kilo, and a vessel berthed at Naval Wharf Kilo, is displaying 2 red (BRAVO) flags by day or 2 red lights by night.

(3) Safety Zone D is permanent and will be enforced at all times.

(4) Under general regulations in § 165.23, during periods of enforcement, entry into the Safety Zones A and B as described in paragraph (a) of this section, is prohibited unless expressly authorized by the Captain of the Port, Guam or a designated representative. Entry into Safety Zone D is prohibited at all times unless expressly authorized by the Captain of the Port, Guam or a designated representative.

Dated: December 5, 2016.

**James B. Pruett,**

*Captain, U.S. Coast Guard, Captain of the Port, Guam.*

[FR Doc. 2016-31894 Filed 1-3-17; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R05-OAR-2016-0479; FRL-9957-60-Region 5]

#### Air Plan Approval; Ohio; Redesignation of the Ohio Portion of the Cincinnati-Hamilton, OH-IN-KY Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to redesignate the Ohio portion of the Cincinnati-Hamilton, OH-IN-KY, nonattainment area (hereafter, “the Cincinnati-Hamilton area”) to attainment for the 1997 fine particulate matter (PM<sub>2.5</sub>) annual national ambient air quality standards (NAAQS or standard). The Ohio portion of the Cincinnati-Hamilton area includes Butler, Clermont, Hamilton, and Warren Counties. Because EPA has determined

that the Cincinnati-Hamilton area is attaining the annual PM<sub>2.5</sub> standard, EPA is proposing to redesignate the area to attainment and also proposing several additional related actions. EPA is proposing to approve the Reasonably Available Control Measures (RACM)-Reasonably Available Control Technology (RACT) portion of Ohio’s Cincinnati-Hamilton area attainment plan SIP revision as providing adequate RACM/RACT. EPA is proposing to approve an update to the Ohio state implementation plan (SIP), by updating the state’s approved plan for maintaining the 1997 annual PM<sub>2.5</sub> NAAQS through 2027. EPA previously approved the base year emissions inventory for the Cincinnati-Hamilton area, and is proposing to approve Ohio’s updated emission inventory which includes emission inventories for volatile organic compounds (VOCs) and ammonia. Ohio’s approved maintenance plan submission includes a budget for the mobile source contribution of PM<sub>2.5</sub> and nitrogen oxides (NO<sub>x</sub>) to the Cincinnati-Hamilton Ohio PM<sub>2.5</sub> area for transportation conformity purposes, which EPA is proposing to approve and update. EPA is proposing to take these actions in accordance with the Clean Air Act (CAA) and EPA’s implementation rule regarding the 1997 PM<sub>2.5</sub> NAAQS.

**DATES:** Comments must be received on or before February 3, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0479 at <http://www.regulations.gov>, or via email to [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov). For comments submitted at [Regulations.gov](http://Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://Regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Joseph Ko, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7947, [ko.joseph@epa.gov](mailto:ko.joseph@epa.gov).

**SUPPLEMENTARY INFORMATION:** This supplementary information section is arranged as follows:

### Contents

- I. Background
- II. What are the criteria for redesignation to attainment?
- III. What is EPA’s analysis of the state’s request?
  1. Attainment
  2. Section 110 and Part D Requirements, and Approval SIP under Section 110(k) (Section 107(d)(3)(E)(ii) and (v))
  3. Permanent and Enforceable Reductions in Emissions (Section 107(d)(3)(E)(iii))
  4. Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))
  5. Motor Vehicle Emissions Budget (MVEBs) for the Mobile Source Contribution to PM<sub>2.5</sub> and NO<sub>x</sub>
  6. Comprehensive Emissions Inventory
- IV. EPA’s Proposed Actions
- V. Statutory and Executive Order Reviews

### I. Background

The first air quality standards for PM<sub>2.5</sub> were promulgated on July 18, 1997, at 62 FR 38652. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter (µg/m<sup>3</sup>) of ambient air, based on a three-year average of the annual mean PM<sub>2.5</sub> concentrations at each monitoring site.

On January 5, 2005, at 70 FR 944, EPA published air quality area designations for the 1997 annual PM<sub>2.5</sub> standard based on air quality data for calendar years 2001–2003. In that rulemaking, EPA designated the Cincinnati-Hamilton area (the Ohio portion being Butler, Clermont, Hamilton, and Warren Counties) as nonattainment for the 1997 annual PM<sub>2.5</sub> standard.

In this proposed redesignation, EPA takes into account two decisions of the D.C. Circuit. On August 21, 2012, in *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7 (D.C. Cir. 2012), the D.C. Circuit vacated and remanded the Cross State Air Pollution Rule (CSAPR) and ordered EPA to continue administering the Clean Air Interstate Rule (CAIR) “pending . . . development of a valid replacement.” *EME Homer City* at 38. The D.C. Circuit denied all