

■ b. In paragraph (b), the first sentence is amended by removing the word "shall" and, in its place, adding the word "must" and by removing the term "Customs territory" and, in its place, adding the term "customs territory"; the third sentence is amended by removing the word "shall" and, in its place, adding the term "will" and by removing the two references to "Customs" and, in its place, adding the term "CBP"; and the fourth sentence is amended by removing the reference to "Customs" and, in its place, adding the term "CBP".

■ c. In paragraph (c), the first and fourth sentences are amended by removing the term "shall" each place it appears and adding the term "must" in its place; and the fifth sentence is amended by removing the term "shall" and, in its place, adding the term "will" and by removing the two references to "Customs" and, in its place, adding the term "CBP".

■ d. Paragraph (g) is amended by removing the term "shall" each place it appears and, in its place, adding the term "must"; and by removing the term "Customs" and, in its place, adding the term "CBP".

■ e. Paragraph (e) is revised to read as follows:

**§ 19.36 Requirements for duty-free store operations.**

\* \* \* \* \*

(e) *Merchandise eligible for warehousing in duty-free stores (Class 9 Warehouses)*—(1) *In General.* Conditionally duty-free merchandise and other merchandise (domestic merchandise and merchandise which was previously entered or withdrawn for consumption and brought into a duty-free store (Class 9 warehouse) for display and sale or for delivery to purchasers can be warehoused in a duty-free store (Class 9 warehouse), but the conditionally duty-free merchandise and other merchandise must be physically segregated from one another, unless one of the following exceptions apply.

(2) *Marking exception to physical segregation.* Merchandise may be identified or marked "DUTY-PAID" or "U.S.-ORIGIN", or similar markings, as applicable, to enable CBP officers to easily distinguish conditionally duty-free merchandise from other merchandise in the sales or crib area.

(3) *Electronic inventory exception to physical segregation.* If the proprietor has an electronic inventory system capable of immediately identifying conditionally duty-free merchandise from other merchandise, the proprietor need not physically separate

conditionally duty-free merchandise from other merchandise or mark the merchandise.

\* \* \* \* \*

**PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS**

■ 5. The general authority citation for part 144 and specific authority citation for § 144.37 continue to read as follows:

**Authority:** 19 U.S.C. 66, 1484, 1557, 1559, 1624.

\* \* \* \* \*

Section 144.37 also issued under 19 U.S.C. 1555, 1562.

■ 6. Section 144.5 is revised to read as follows:

**§ 144.5 Period of warehousing.**

Merchandise must not remain in a bonded warehouse beyond 5 years from the date of importation or such longer period of time as the port director may at his discretion permit upon proper request being filed and good cause shown.

■ 7. In § 144.37:

■ a. Paragraph (a) is amended by removing the word "shall" each place it appears and, in its place, adding the word "must"; and by removing the word "Customs" each place it appears and, in its place, adding the term "CBP".

■ b. Paragraphs (b)(1), (f), and (h)(3) are amended by removing the word "shall" each place it appears and, in its place, adding the word "must".

■ c. In paragraph (b)(2), the first sentence is amended by removing the word "shall" and, in its place, adding the word "must" and by removing the reference to "Customs" and, in its place, adding the term "CBP"; the second and third sentences are amended by removing the word "shall" each place it appears and, in its place, adding the word "will"; and the last sentence is amended by removing the word "shall" and, in its place, adding the word "must".

■ d. Paragraph (d) is amended by removing the word "Customs" each place it appears and, in its place, adding the term "CBP"; and by removing the word "shall" each place it appears and, in its place, adding the word "must".

■ e. Paragraphs (h)(2), introductory text, and (h)(2)(vi) are revised to read as follows:

**§ 144.37 Withdrawal for exportation.**

\* \* \* \* \*

(h) \* \* \*

(2) *Sales ticket content and handling.* Sales ticket withdrawals must be made only under a blanket permit to

withdrawal (see § 19.6(d) of this chapter) and the sales ticket will serve as the equivalent of the supplementary withdrawal. A sales ticket is an invoice of the proprietor's design which will include:

\* \* \* \* \*

(vi) A statement on the original copy (purchaser's copy) to the effect that goods purchased in a duty-free store will be subject to duty and/or tax with personal exemption if returned to the United States. At the time of purchase, the original sales ticket must be made out in the name of the purchaser and given to the purchaser. One copy of the sales ticket must be retained by the proprietor. This copy may be maintained electronically. A permit file copy will be attached to the parcel containing the purchased articles unless the proprietor has established and maintained an effective method to match the parcel containing the purchased articles with the purchaser. Additional copies may be retained by the proprietor.

\* \* \* \* \*

Approved: December 22, 2009.

**Jason P. Ahern,**

*Acting Commissioner, U.S. Customs and Border Protection.*

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. E9-30735 Filed 12-28-09; 8:45 am]

BILLING CODE 9111-14-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2009-1067]

RIN 1625-AA00

**Safety Zone; Atlantic Intracoastal Waterway, Oak Island, NC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of the Atlantic Intracoastal Waterway at Oak Island, North Carolina. All vessels are prohibited from transiting the zone near the second crossing to Oak Island, North Carolina except as specifically authorized by the Captain of the Port or a designated representative. The safety zone is necessary to provide for the safety of mariners on navigable waters during the installation of bridge girders at the new high-level fixed highway bridge at the

second crossing to Oak Island, North Carolina.

**DATES:** This rule is effective December 29, 2009 through 5:30 p.m. January 11, 2010, and applicable for purposes of enforcement from 7:30 a.m. December 7, 2009 through 5:30 p.m. January 11, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-1067 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-1067 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail CWO4 Stephen Lyons, Waterways Management Division Chief, Coast Guard Sector North Carolina; telephone (252) 247-4525, e-mail [Stephen.W.Lyons2@uscg.mil](mailto:Stephen.W.Lyons2@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

The Coast Guard is issuing this temporary final 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 immediate action is needed to provide for the safety of life and property on navigable waters.

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 hazards associated with the girder installation, including potential falling debris and the use of heavy equipment and machinery in the waterway, could lead to severe injury,

fatalities and/or destruction of public property. Therefore, immediate action is needed to ensure the public's safety from the hazards noted above.

##### **Background and Purpose**

The State of North Carolina Department of Transportation awarded a contract to Lee Construction Company of the Carolinas, Inc. of Charlotte, North Carolina, to perform bridge girder installation at the new high-level fixed highway bridge at the second crossing to Oak Island, North Carolina. The contract provides for the installation of bridge girders. The center girder installation is scheduled to begin on December 7, 2009 and will be completed by January 11, 2010. The contractor will be utilizing a deck barge with a 55' beam, a 450 ton ringer crane on a stationary barge with an 85' beam, and an assist tug to conduct the girder installation. This operation presents a potential hazard to mariners from falling debris and the use of heavy equipment and machinery. To provide for the safety of the public, the Coast Guard will temporarily restrict access to this section of the Atlantic Intracoastal Waterway during girder installation, scheduled daily from 7:30 a.m. until 11:30 a.m.

##### **Discussion of Rule**

The Coast Guard is establishing a temporary safety zone to encompass the waters of the Atlantic Intracoastal Waterway extending 250 yards in all directions from the main construction site at the second crossing to Oak Island, North Carolina, located at Atlantic Intracoastal Waterway Mile 316.6 (33°55.63 N, 078°9.37 W, NAD 1983). All vessels are prohibited from transiting this section of the waterway while the safety zone is in effect. Entry into the zone will not be permitted except as specifically authorized by the Captain of the Port or a designated representative. To seek permission to transit the area, mariners can contact Sector North Carolina at telephone number (252) 247-4570. This zone will be enforced daily from 7:30 a.m. until 11:30 a.m. while girder installation is in progress from December 7, 2009 through January 11, 2010. Notification of the safety zone will be provided to the public via broadcast notice to mariners.

##### **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 restrict access to the area, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration of time, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) vessels may be granted permission to transit the area by the Captain of the Port or a designated 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 will affect the following entities, some of which may be small entities: The owners or operators of tug and barge, recreational, and fishing vessels intending to transit the specified portion of the Atlantic Intracoastal Waterway from 7:30 a.m. December 7, 2009 through 5:30 p.m. January 11, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: This rule will be enforced for only a limited time each day. Although the safety zone will apply to the entire width of the Atlantic Intracoastal Waterway, vessel traffic can use alternate waterways to transit safely around the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

##### **Assistance for Small Entities**

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

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 023-01 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule establishes a temporary safety zone to protect the public from bridge construction operations. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

### 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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.T05-1067 to read as follows:

#### § 165.T05-1067 Safety Zone; Atlantic Intracoastal Waterway, Oak Island, NC.

(a) *Definitions.* For the purposes of this section, Captain of the Port means the Commander, Sector North Carolina. *Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: The waters of the Atlantic Intracoastal Waterway extending 250 yards in all directions from the main construction site at the new high-level fixed highway bridge at the second crossing to Oak Island, North Carolina, located at Atlantic Intracoastal Waterway Mile 316.6 (33°55.63 N., 078°9.37 W., NAD 1983).

(c) *Regulations.* (1) The general regulations contained in § 165.23 of this part apply to the area described in paragraph (b) of this section.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request

authorization from the Captain of the Port, or a designated representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (252) 247-4570 or by radio on VHF Marine Band Radio, channels 13 and 16.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced daily from 7:30 a.m. until 11:30 a.m. while girder installation is in progress throughout the effective period from 7:30 a.m. December 7, 2009 through 5:30 p.m. January 11, 2010 unless cancelled earlier by the Captain of the Port. The exact daily times will be announced in Broadcast Notice to Mariners.

Dated: December 7, 2009.

**J.E. Ryan,**

*Captain, U.S. Coast Guard, Captain of the Port North Carolina.*

[FR Doc. E9-30718 Filed 12-28-09; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2008-0787; FRL-9096-4]

#### Approval and Promulgation of Implementation Plans; State of Missouri

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to the State Implementation Plan (SIP) submitted by the state of Missouri. This revision applies to Missouri's rule relating to restriction of emission of visible air contaminants and removes redundant definitions, removes an outdated exemption for incinerators used to burn refuse in the outstate area, and clarifies that the test methods stated in the rule shall be used to determine the opacity of visible emissions. EPA is not taking action on the state submitted revisions relating to open burning, as these provisions revise a rule that has not been adopted into the SIP. Approval of this revision will ensure consistency between the state and the Federally approved rules.

**DATES:** This direct final rule will be effective March 1, 2010, without further notice, unless EPA receives adverse comment by January 28, 2010. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2008-0787, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *E-mail: kemp.lachala@epa.gov.*

3. *Mail:* Lachala Kemp, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier:* Deliver your comments to Lachala Kemp, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

*Instructions:* Direct your comments to Docket ID No. EPA-R07-OAR-2008-0787. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available; *i.e.*, 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 in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m. excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Lachala Kemp at (913) 551-7214, or by e-mail at *kemp.lachala@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following questions:

- What is a SIP?
- What is the Federal approval process for a SIP?
- What does Federal approval of a state regulation mean to me?
- What is being addressed in this document?
- Have the requirements for approval of a SIP revision been met?
- What action is EPA taking?

#### What is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.