

the conduct that will subject an individual to a ban and the procedures we will follow when banning an individual from entering our offices. We expect that the regulations will result in a safer environment for our personnel and the public who visit our facilities, while ensuring that our personnel can continue to serve the American people with as little disruption to our operations as possible.

§ 422.902 Definition of personnel for purposes of this subpart.

We will construe the term “personnel” broadly to mean persons responsible for or engaged in carrying out the responsibilities, programs, or services of or on behalf of the agency. Personnel includes, but is not limited to, our employees, contractors, consultants, and examiners and State disability determination services (DDS) employees, contractors, consultants, and examiners.

§ 422.903 Prohibited conduct.

We will ban you from entering our offices if you:

- (a) Physically or verbally assault our personnel or a member of the public in our occupied space;
- (b) Use force or threats of force against our personnel or offices, including but not limited to communicating threats in person or by phone, facsimile, mail, or electronic mail;
- (c) Engage in disruptive conduct that impedes our personnel from performing their duties; or
- (d) Engage in disruptive conduct that impedes members of the public from obtaining services from our personnel.

§ 422.904 Notice of the ban.

If an agency manager makes a decision in writing that you pose a threat to the safety of our personnel, visitors, office, or the operational effectiveness of the agency, we will send you a notice banning you from our offices. The notice will contain the following information:

- (a) *Type of restriction.* If we ban you from entering our offices, the ban will apply to all of our offices, and you must obtain all future service through alternate means. We will provide you in-person service only if you establish that there are no alternate means available. You must direct your request for in-person service to the manager of the office you are requesting to visit. If we determine that an office visit is warranted, we will schedule an appointment for you and send you a certified letter notifying you of the date, time, and location of the appointment.
- (b) *Prohibited conduct.* We will provide you with specific details of the

prohibited conduct that served as the basis for our decision to ban you.

(c) *Alternate means of service.* If you are banned from entering our offices, you still have several means to receive services:

- (1) You may use the online services available through our Web site at <http://www.socialsecurity.gov>;
 - (2) You may call your local office. Your notice will include the contact information for your local office. You should ask to speak with the office manager or a supervisor;
 - (3) You may call our national toll-free number at 1-800-772-1213 between the hours of 7 a.m. and 7 p.m., Monday through Friday. You should not attempt to schedule an in-person appointment through this number. If you are deaf or hard of hearing, you may call our toll-free TTY number at 1-800-325-0778;
 - (4) You may write to your local office. You should address all correspondence to the attention of the office manager;
 - (5) With your written consent, another person may call, write, or visit us to conduct business on your behalf.
- (d) *Appeal rights.* The notice will provide you with information on how to appeal the ban.
- (e) *Periodic request for review of ban decision.* The notice will provide you with information on how to request review of the ban determination every three years from the date of the ban notice, or if you appeal the ban, the date of the appeal decision.

§ 422.905 Appeal rights.

You may appeal our decision to ban you. You must submit your appeal in writing to the address identified in the notice within 60 days of the date of the notice. You should identify your name, address, Social Security number, and the office that issued the notice of the ban. The appeal should clearly state why we should reconsider our decision and provide any supporting documentation. We may allow an additional 10 days for the late filing of an appeal if you show good cause for the late filing. The ban will remain in effect while the appeal is pending. We will notify you of our decision in writing.

§ 422.906 Periodic request for review of ban decision.

You may request review of our ban decision every three years. The three-year cycle to request review will begin on the date we issued notice of the ban, or if you appealed, the date of our appeal decision. You must submit your request for review of a ban decision in writing to the address identified in the original notice of the ban. Your request

for review should identify your name, address, Social Security number, and office that issued the notice of the ban. Your request should clearly state why we should lift the ban and provide relevant documentation that supports removal of the restriction, including medical documentation, applicable psychiatric evaluations, work history, and any criminal record. You must prove by a preponderance of the evidence (meaning that it is more likely than not) that you no longer pose a threat to the safety of our personnel or visitors or the operational effectiveness of the agency. We will notify you of our decision in writing.

§ 422.907 Posting requirement.

We will post the regulation in this subpart in a conspicuous place in our offices that serve the public.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-0001]

RIN 1625-AA00

Safety Zone; Myrtle Beach Triathlon, Atlantic Intracoastal Waterway, Myrtle Beach, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Atlantic Intracoastal Waterway in Myrtle Beach, South Carolina during the Myrtle Beach Triathlon. The Myrtle Beach Triathlon, which is comprised of a series of triathlon races, is scheduled to take place on Saturday, October 8, 2011 and Sunday, October 9, 2011. This temporary safety zone is necessary for the safety of race participants, participant vessels, spectators, and the general public during the swim portions of the triathlon races. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from 6 a.m. on October 8, 2011 through 11:59 a.m. on October 9, 2011.

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–2011–0001 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0001 in the “Keyword” box, and then clicking “Search.” This material is 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 final rule, call or e-mail Ensign John R. Santorum, Sector Charleston Office of Waterways Management, Coast Guard; telephone 843–740–3184, e-mail John.R.Santorum@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

On June 28, 2011, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Myrtle Beach Triathlon, Atlantic Intracoastal Waterway, Myrtle Beach, SC in the *Federal Register* (76 FR 124). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Basis and Purpose

The legal basis for the rule is the Coast Guard’s authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 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, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to ensure the safety of race participants, participant vessels, spectators and the general public during the swim portion of the triathlon races.

Discussion of Comments and Changes

The Coast Guard did not receive any comments to the proposed rule, and no changes were made to the regulatory text.

Discussion of Rule

On October 8 and 9, 2011, the Myrtle Beach Triathlon will be held in Myrtle Beach, South Carolina. This event will be comprised of a series of triathlon races. Approximately 2,500 individuals are scheduled to compete in the event. The rule establishes a temporary safety

zone around the swim area of the Myrtle Beach Triathlon on the Atlantic Intracoastal Waterway in Myrtle Beach, South Carolina. The temporary safety zone will be enforced daily from 6 a.m. until 11:59 a.m. on October 8, 2011 through October 9, 2011. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the safety zone by contacting the Captain of the Port Charleston via telephone at 843–740–7050, or a designated representative via VHF radio on channel 16.

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.

Executive Order 12866 and Executive Order 13563

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, 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.

The economic impact of this rule is not significant for the following reasons: (1) The safety zone will only be enforced for a total of 12 hours; (2) the safety zone will encompass only a small portion of the navigable waterway; (3) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the enforcement period; (4) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Charleston or a designated representative; and (5) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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 may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Atlantic Intracoastal Waterway encompassed within the safety zone from 6 a.m. on October 8, 2011 through 11:59 a.m. on October 9, 2011. For the reasons discussed in the Executive Order 12866 and Executive Order 13563 section above, this rule will not have a significant economic impact on a substantial number of small entities.

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 (NTAA) (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.ID, 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 that 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 involves establishing a temporary safety zone that will be enforced for a total of 12 hours. 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. 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0001 to read as follows:

§ 165.T07–0001 Safety Zone; Myrtle Beach Triathlon, Atlantic Intracoastal Waterway, Myrtle Beach, SC.

(a) *Regulated Area.* The following regulated area is a safety zone. All waters of the Atlantic Intracoastal Waterway encompassed within an imaginary line connecting the following points: starting at Point 1 in position 33°45′35″ N, 78°49′42″ W; thence southeast to Point 2 in position 33°45′31″ N, 78°49′39″ W; thence northeast to Point 3 in position 33°45′57″ N, 78°48′57″ W; thence northeast to Point 4 in position 33°46′00″ N, 78°48′57″ W; thence southwest back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date and Enforcement Periods.* This rule is effective from 6 a.m. on October 8, 2011 through 11:59 a.m. on October 9, 2011. This rule will be enforced daily from 6 a.m. until 11:59 a.m. on October 8, 2011 through October 9, 2011.

Dated: August 22, 2011.

M.F. White,

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

[FR Doc. 2011-22491 Filed 9-1-11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2010-0856; FRL-9459-1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The revision establishes the addition of nitrogen oxides (NO_x) as a precursor to ozone in Virginia for permits of major stationary sources or major modifications locating in Prevention of Significant Deterioration (PSD) areas. EPA is approving the addition of NO_x as a precursor to ozone based on the Virginia regulations dated December 31, 2008. A previous PSD program approval of Virginia's Chapter 80, Article 8 regulations was provided to the Commonwealth as a "limited approval" for reasons that will not deny this action as being fully approved. This revision to add NO_x as a precursor to ozone is in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on October 3, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2010-0856. 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. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Sharon McCauley, (215) 814-3376, or by e-mail at mccauley.sharon@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On May 23, 2011 (76 FR 29686), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of including NO_x as a precursor to ozone for permitting and the construction of new major stationary sources and the significant modification of existing major stationary sources of air pollutants in areas designated attainment or non-classifiable for the National Ambient Air Quality Standards (NAAQS) in Virginia. The formal SIP revision was submitted by Virginia on June 7, 2010.

This approval establishes NO_x as a precursor to ozone, in addition to volatile organic compounds (VOC), in the definitions of "major modification", "major stationary source", "regulated New Source Review (NSR) pollutant" and "significant" and to the list of exempted facilities. Virginia's regulations adding NO_x as a precursor to ozone establishes a construction permit program consistent with the Federal CAA's Title I program and implementing regulations at 40 CFR 51.166, "Prevention of Significant Deterioration of Air Quality." VADEQ's regulation 9VAC5 Chapter 80, Article 8 is part of the SIP and sets forth the criteria and procedures for major stationary sources to obtain a permit to construct, operate and/or modify a major stationary source.

Previously, EPA had issued a "limited approval" of Virginia's PSD regulations (9VAC5 Chapter 80, Article 8) for reasons that will not deny this action as being fully approved. The "limited approval" issues can be found in the Technical Support Document contained in this Docket or in the **Federal Register** action dated October 22, 2008 (73 FR 62897).

II. Summary of SIP Revision

Our review of Virginia's SIP revision request indicates that our approval of this SIP revision is warranted. These changes to the Virginia program are found in the Virginia Code at 9VAC5 Chapter 80, Article 8, Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas. EPA is approving NO_x as a precursor to ozone in addition to VOCs in the definitions of "major modification", "major stationary source", "regulated New Source Review (NSR) pollutant" and "significant" and to the list of exempted facilities as a revision to the Virginia SIP.

This SIP approval for 9VAC5-80-1615 and 9VAC5-80-1695 addresses regulatory changes needed to be equivalent to the CAA's part C PSD permit program. It also corrects deficiencies identified by EPA in the March 27, 2008 **Federal Register** action entitled, "Completeness Findings for Section 110(a) State Implementation Plans for the 8-hour Ozone National Ambient Air Quality Standards (1997 Ozone NAAQS)" (73 FR 16205). EPA's approval of this SIP submission addresses Virginia's compliance with the portion of CAA Section 110(a)(2)(C) & (J) relating to the CAA's part C PSD permit program for the 1997 Ozone NAAQS, because this approval will allow regulating NO_x as a precursor to ozone in Virginia's SIP in accordance with the **Federal Register** action dated November 29, 2005 (70 FR 71612) that finalized NO_x as a precursor for ozone regulations set forth at 40 CFR 51.166 and in 40 CFR 52.21.

We are fully approving these regulatory citation changes which became effective in Virginia on December 31, 2008, as referenced here in this document and in the Virginia Code of Regulations 9VAC5 Chapter 80, Article 8, sections 5-80-1615 and 5-80-1695 which establish NO_x as a precursor to ozone, into the Virginia SIP.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's