

**§ 165.T09–0854 Safety Zone; Moonlight on the Bay Fireworks, Presque Isle Bay, Lake Erie, Erie, PA.**

(a) *Location.* The safety zone will encompass all waters of Presque Isle Bay; Erie, PA contained within a 280-foot radius of: 42°08'55.3" N, 80°04'58.1" W.

(b) *Enforcement period.* This regulation will be enforced from 9:30 p.m. until 11:00 p.m. on September 7, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: August 30, 2018.

**Kenneth E. Blair,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Buffalo.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG–2018–0856]

**RIN 1625–AA00**

**Safety Zone; PA Municipal Authorities Annual Conference Fireworks, Presque Isle Bay, Erie, PA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for

navigable waters within a 280-foot radius of the launch site located at Dobbins Landing, Erie, PA. This safety zone is intended to restrict vessels from portions of Presque Isle Bay during the Pennsylvania Municipal Authorities Annual Conference fireworks display. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo.

**DATES:** This rule is effective from 8:45 p.m. until 9:45 p.m. on September 11, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2018–0856 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LTJG Sean Dolan, Chief Waterways Management Division, U.S. Coast Guard; telephone 716–843–9322, email [D09-SMB-SECBuffalo-WWM@uscg.mil](mailto:D09-SMB-SECBuffalo-WWM@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

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 Information and Regulatory History**

The Coast Guard is issuing this temporary 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 due to it being impracticable and contrary to public interest. The final details of this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish a NPRM.

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 the rule's objectives of enhancing safety of life on the navigable waters and protection of persons and vessels in vicinity of the Pennsylvania Municipal Authorities Annual Conference fireworks display.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Buffalo (COTP) has determined that a fireworks display presents significant risks to the public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks display takes place.

**IV. Discussion of the Rule**

This rule establishes a safety zone on September 11, 2018, from 8:45 p.m. until 9:45 p.m. The safety zone will encompass all waters of Presque Isle Bay; Erie, PA contained within 280-foot radius of: 42°08'19.87" N, 80°05'29.45" W.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

**V. Regulatory Analyses**

We developed this rule 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 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the conclusion that this rule is not a significant regulatory action. We anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

#### 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 rule will 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 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.

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.

#### C. Collection of Information

This rule will 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 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 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. If you believe this 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined 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 rule establishes a temporary safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### 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.

#### 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; 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. Add § 165.T09–0856 to read as follows:

#### § 165.T09–0856 Safety Zone; Pennsylvania Municipal Authorities Annual Conference Fireworks Display; Presque Isle Bay, Erie, PA.

(a) *Location.* The safety zone will encompass all waters of Presque Isle Bay; Erie, PA contained within a 280-foot radius of: 42°08′19.87″ N, 80°05′29.45″ W.

(b) *Enforcement period.* This regulation will be enforced from 8:45 p.m. until 9:45 p.m. on September 11, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

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Dated: August 30, 2018.

**Kenneth E. Blair,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Buffalo.*

[FR Doc. 2018–19413 Filed 9–6–18; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2017–0280; FRL–9982–60–Region 5]

### Air Plan Approval; Wisconsin; 2017 Revisions to NR 400 and 406

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving certain changes to the Wisconsin State Implementation Plan (SIP). This action relates to changes in Wisconsin’s construction permit rules as well as the change in the definition for “emergency electric generators” in NR 400. This request for the revision of the SIP was submitted by the Wisconsin Department of Natural Resources (WDNR) on May 16, 2017.

**DATES:** This final rule is effective on October 9, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2017–0280. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, 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 through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Rachel Rineheart, Environmental Engineer, at (312) 886–7017 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Rachel Rineheart, Environmental Engineer, Air Permits Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7017, [rineheart.rachel@epa.gov](mailto:rineheart.rachel@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows: is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Review of State Submittal
- II. What is our response to comments received on the proposed rulemaking?
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

#### I. Review of State Submittal

This final rulemaking addresses the May 16, 2017 WDNR submittal for a SIP revision, revising the rules in the Wisconsin SIP to align them with Federal requirements. WDNR’s submittal includes changes to the term “electric generator,” replacing it with “restricted internal combustion engine” as well as other minor language and administrative changes. Specifically, NR 400.02(136m) replaces the existing definition of emergency “electric generator” with a definition of “restricted use internal combustion engine,” and NR 406.04(1)(w) amends the exemption language for “emergency electric generators,” replacing it with an exemption for “restricted use reciprocating internal combustion engines.” NR 406.08(1) and NR 406.10 involve minor changes to language, and NR 406.11(1) amends procedures for revoking construction permits. These changes serve the purpose of aligning Wisconsin’s definitions with the Federal definitions.

WDNR is also requesting the removal of NR 406.16(2)(d) and NR 406.17(3)(e) from the SIP. These provisions address the eligibility of coverage under general

and registration construction permits based on whether the project constituted a Type 2 action under the previous chapter NR 150. However, the current chapter NR 150 was amended and no longer defines or sets requirements for Type 2 actions. Removing these provisions from Wisconsin’s SIP ensures consistency with the Wisconsin Environmental Protection Act (WEPA), and does not affect consistency with the Clean Air Act (CAA). It is also consistent with Section 110(l) of the CAA. Sources covered under registration and general permits are still subject to all emission caps and applicable requirements contained in those permits.

#### II. What is our response to comments received on the proposed rulemaking?

EPA published a direct final rule on November 7, 2017 (82 FR 51575), approving Wisconsin’s requested revisions to the SIP, along with a proposed rule (82 FR 51594) that provided a 30-day public comment period. EPA received two comment letters during the public comment process. There were comments on the proposed approval from Sierra Club and the Center for Biological Diversity combined and one comment from an anonymous commenter. The letter from the anonymous commenter was dated December 2, 2017 and the letter from Sierra Club and the Center for Biological Diversity was dated December 7, 2017. Consequently, the direct final rule on this approval was withdrawn on December 21, 2017 (82 FR 60545). A summary of the comments received and EPA’s response follows.

##### A. Section 110(l) Determination

*Comment 1:* The revisions to the prior exemption for emergency generators are a relaxation of the SIP and EPA cannot approve the SIP relaxation without an analysis that the relaxation will not interfere with attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) or any other CAA requirement pursuant to Section 110(l) of the CAA.

*EPA Response:* Section 110(l) states “each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of this title), or any other applicable requirement of this Act.” Wisconsin has adequately demonstrated that the