

§ 1952.29 Massachusetts.

(a) The Massachusetts State Plan for State and local Government employees received initial approval from the Assistant Secretary on August 18, 2022.

(b) The Plan further provides assurances of a fully trained, adequate staff within three years of plan approval, including 8 safety and 3 health compliance officers for enforcement inspections, and 2 safety and 1 health consultants to perform consultation services in the public sector. The State has assured that it will continue to provide a sufficient number of adequately trained and qualified personnel necessary for the enforcement of standards as required by 29 CFR 1956.10. The State has also given satisfactory assurance of adequate funding to support the Plan.

(c) The plan only covers State and local government employers and employees within the State. For additional details about the plan, please visit <https://www.osha.gov/dcsp/osp/stateprogs/massachusetts.html>.

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DEPARTMENT OF HOMELAND SECURITY
Coast Guard
33 CFR Part 165

[Docket Number USCG-2022-0670

RIN 1625-AA00

Safety Zone; Cumberland River, Nashville, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Cumberland River on mile marker (MM) 190 to 192. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by Nashville CVC-ASAE Fireworks. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective 9 p.m. through 9:30 p.m. on August 20, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0670 in the search box and click "Search." Next, in the Document Type

column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Third Class Benjamin Gardner, Marine Safety Detachment Nashville, U.S. Coast Guard; telephone 615-736-5421, email, Benjamin.T.Gardner@uscg.mil.

SUPPLEMENTARY INFORMATION:
I. Table of Abbreviations

CFR Code of Federal Regulations
 DHS Department of Homeland Security
 FR Federal Register
 MM Mile marker
 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 because publishing an NPRM would be impracticable. It is impracticable to publish an NPRM because we must establish this safety zone by August 20, 2022 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the Nashville CVC-ASAE Fireworks event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the Nashville CVC-ASAE Fireworks starting August 20, 2022, will be a safety concern for anyone within mile marker 190 to 192 on the Cumberland River. This rule is needed to protect personnel, vessels,

and the marine environment in the navigable waters within the safety zone during the firework display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 9 p.m. until 9:30 p.m. on August 20, 2022. The safety zone will cover all navigable waters between MM 190 to 192 on the Cumberland River, extending the entire width of the river. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the fireworks display is occurring. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Ohio Valley.

Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 502-779-5422 or on VHF-FM channel 16.

Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and Marine Safety Information Bulletins (MSIBs) about this safety zone, enforcement period, as well as any changes in the dates and times of enforcement.

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. 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).

This regulatory action determination is based on the fireworks show being held for 30 minutes during the evening hours and only impacting 2 miles of the Cumberland River.

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 call or email 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.

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, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), 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 involves a safety zone lasting only 30 minutes that will prohibit entry between MM 190 to 192 on the Cumberland River for the fireworks display. 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. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions

on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T08–0670 to read as follows:

§ 165.T08–0670 Safety Zone; Cumberland River, Nashville, TN.

(a) *Location.* The following area is a safety zone: All navigable waters of the Cumberland River, from Mile Markers 190 to 192, extending the entire width of the river.

(b) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or the COTP’s designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Ohio Valley.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP’s representative by telephone at 502–779–5422 or on VHF–FM channel 16.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(c) *Enforcement period.* This section will be enforced from 9 p.m. through 9:30 p.m. on August 20, 2022.

Dated: August 13, 2022.

H.R. Mattern,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2017-0615; FRL-9607-02-R3]

Air Plan Partial Disapproval and Partial Approval; Pennsylvania; Attainment Plan for the Indiana, Pennsylvania Nonattainment Area for the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is revising its prior action that erroneously fully approved a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania (PA), through the Pennsylvania Department of Environmental Protection (PADEP), to EPA on October 11, 2017, and supplemented on February 5, 2020. The SIP revision provided a plan for attainment of the 2010 sulfur dioxide (SO₂) primary national ambient air quality standard (NAAQS) in the Indiana, Pennsylvania SO₂ nonattainment area (hereafter referred to as the “Indiana, PA NAA” or “Indiana Area”). The attainment plan submission included a base year emissions inventory, an analysis of the reasonably available control technology (RACT) and reasonably available control measure (RACM) requirements, enforceable emission limitations and control measures, a reasonable further progress (RFP) plan, a modeling demonstration of SO₂ attainment, and contingency measures for the Indiana Area. EPA is revising its prior action and is partially approving and partially disapproving the SIP. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on September 19, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2017-0615. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available,

e.g., 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 through www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT:

Megan Goold, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2027. Ms. Goold can also be reached via electronic mail at goold.megan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 17, 2022 (87 FR 15166), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA provided notice to the Commonwealth and the public and described the basis for its determination that it had erroneously fully approved the Indiana, PA SO₂ Attainment Plan, and proposed to revise its formal approval of the Plan to a partial disapproval and partial approval. See CAA section 110(k)(6). The formal SIP revision was originally submitted by Pennsylvania on October 11, 2017, and later supplemented on February 5, 2020. EPA took final action approving this attainment plan on October 19, 2020 (85 FR 66240).

On December 18, 2020, the Sierra Club, Clean Air Council, and PennFuture filed a petition for judicial review with the U.S. Court of Appeals for the Third Circuit, challenging that final approval.¹ On April 5, 2021, EPA filed a motion for voluntary remand without vacatur of its approval of the Indiana, PA SO₂ attainment plan. On August 17, 2021, the U.S. Court of Appeals for the Third Circuit granted EPA’s request for remand without vacatur of the final approval of Pennsylvania’s SO₂ attainment plan for the Indiana, PA NAA, and required that EPA take final action in response to the remand no later than one year from the date of the court’s order (*i.e.*, by August

17, 2022). This action finalizes EPA’s response to the court’s order.

II. Summary of SIP Revision and EPA Analysis

In accordance with section 172(c) of the CAA, the Pennsylvania attainment plan for the Indiana Area includes an emissions inventory for SO₂ for the plan’s base year (2011) and an attainment demonstration. The attainment demonstration includes the following: (1) analyses that locate, identify, and quantify sources of emissions contributing to violations of the 2010 SO₂ NAAQS; (2) a determination that the control strategy for the primary SO₂ sources within the nonattainment areas constitutes RACM/RACT; (3) a dispersion modeling analysis of an emissions control strategy for the primary SO₂ sources contributing to SO₂ concentrations in the Area (Keystone, Conemaugh, Homer City, and Seward) purporting to show attainment of the SO₂ NAAQS by the October 4, 2018, attainment date; (4) requirements for RFP toward attaining the SO₂ NAAQS in the Area; (5) contingency measures; (6) the assertion that Pennsylvania’s existing SIP-approved new source review (NSR) program meets the applicable requirements for SO₂; and (7) the request that emission limitations and compliance parameters for Keystone, Conemaugh, Homer City, and Seward be incorporated into the SIP.

On February 5, 2020, in response to comments submitting during the proposal’s public comment period, PADEP submitted supplemental information in support of the attainment plan. The February 5, 2020 submittal included: (1) a supplemental air dispersion modeling report; (2) supplemental air dispersion modeling data; (3) a supplemental air dispersion modeling protocol; (4) a meteorological monitoring plan; (5) meteorological monitoring data; (6) meteorological monitoring quality assurance, quality control, and audit reports; (7) Clean Air Markets Division (CAMD) emissions data for 2010–2018; and (8) Continuous Emissions Monitoring (CEM) data for 2010 through the third quarter of 2019. The supplemental air dispersion modeling used a more refined model receptor grid than that in the original submittal, meteorological data collected near the controlling modeled source (Seward), and more recent (2016–18) background concentrations from the South Fayette SO₂ monitor (the monitor used to determine background concentrations in the original modeling analysis). In order to allow for public comment on this supplemental

¹ *Sierra Club, et. al v. EPA*, Case No. 20–3568 (3rd Cir.).