

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD 05-99-090]

RIN 2115-AA97

Safety Zone; Chesapeake Bay, Hampton, VA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the 1812 Overture Fireworks Display to be held on a deck barge in Chesapeake Bay, adjacent to Fort Monroe, Hampton, Virginia. This action is intended to restrict vessel traffic on a portion of Chesapeake Bay, within a 1000-foot radius of the fireworks deck barge. The safety zone is necessary to protect mariners and spectators from the hazards associated with the fireworks display.

DATES: This temporary final rule is effective from 8:30 p.m. until 9:30 p.m. on October 23, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the USCG Marine Safety Office Hampton Roads, 200 Granby Street, Norfolk, Virginia, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 441-3290.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Alford Danzy, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 441-3290.

SUPPLEMENTARY INFORMATION:**Regulatory History**

A Notice of Proposed Rule Making (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553, the Coast Guard finds that good cause exists for not publishing an NPRM. In keeping with the requirements of 5 U.S.C. 533(d)(3), the Coast Guard also finds good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**. The Coast Guard received confirmation of this request for a temporary safety zone on September 23, 1999. There was not sufficient time to publish a proposed rule in advance of the event. Publishing an NPRM and delaying the effective date of the regulation would be contrary to the public interest, because immediate action is necessary to protect the vessels

and spectators from the hazards associated with the fireworks display.

Background and Purpose

The Coast Guard is establishing a temporary safety zone for the 1812 Overture Fireworks Display to be held on a deck barge in Chesapeake Bay adjacent to Fort Monroe, Hampton, Virginia. The safety zone will restrict vessel traffic on a portion of Chesapeake Bay, within an 1000-foot radius of the fireworks deck barge, located in approximate position 37° 00' 03" N, 076° 18' 26" W (NAD 1983). The safety zone is necessary to protect mariners and spectators from the hazards associated with the fireworks display.

The safety zone is effective from 8:30 p.m. until 9:30 p.m. on October 23, 1999. Entry into this safety zone is prohibited unless authorized by the Captain of the Port Hampton Roads. Public notifications will be made prior to the event via local notice to mariners and marine information broadcasts.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). This temporary final rule only affects a limited area for one hour and only affects the waters of Chesapeake Bay adjacent to Fort Monroe within a 1000-foot radius of the fireworks deck barge. The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this temporary final rule will have a significant economic impact on a substantial number of small entities. "Small Entities" include 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. This regulation will be in effect for one hour and only affects the waters of Chesapeake Bay adjacent to Fort Monroe within a 1000-foot radius of the fireworks deck barge. Therefore, the Coast Guard certifies under section

605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary final rule does not provide for a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this temporary final rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has analyzed this temporary final rule and concluded that, under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C, this temporary final rule is categorically excluded from further environmental documentation. This regulation will have no impact on the environment.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR 165 as follows:

PART 165—[AMENDED]

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(g), 6.04-6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T05-090 is added to read as follows:

§ 165.T05-090 Safety Zone; Chesapeake Bay, Hampton, VA.

(a) *Location.* The following area is a safety zone: All waters of the Chesapeake Bay adjacent to Fort Monroe, Hampton, Virginia within a 1000-foot radius of the fireworks deck barge at approximate position 37°00'03" N, 076°18'26" W. All coordinates reference Datum NAD 1983.

(b) *Effective Date.* This section is effective from 8:30 p.m. until 9:30 p.m. on October 23, 1999.

(c) *Definition.* *Captain of the Port* means the Commanding Officer of the Marine Safety Office Hampton Roads, Norfolk, VA or any Coast Guard

commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(d) **Regulations.** (1) All persons are required to comply with the general regulations governing safety zones in § 165.23 of this part.

(2) Persons or vessels requiring entry into or passage through the safety zone must first request authorization from the Captain of the Port. The Coast Guard vessels enforcing the safety zone can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (757) 484-8192.

(e) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: September 29, 1999.

B.R. Conaway,

Commander, U.S. Coast Guard, Acting Captain of the Port Hampton Roads.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[TX-112-1-7421a; FRL-6449-5]

Approval and Promulgation of Air Quality Implementation Plans; Texas: Redesignation Request and Maintenance Plan for the Collin County Lead Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving a request from the Texas Natural Resource Conservation Commission (TNRCC) to redesignate Collin County, Texas, to attainment for the lead National Ambient Air Quality Standard (NAAQS). This request was submitted to us by the Governor on August 31, 1999. The request was accompanied by a demonstration from TNRCC that continued compliance with the lead NAAQS can reasonably be expected. The maintenance plan also includes a summary of the measured lead concentrations from 1995-1998, an inventory of the annual lead emissions in the County, the permitted and enforceable conditions responsible for continued compliance with the lead NAAQS, and contingency measures, should a future violation occur.

DATES: This direct final rule is effective on December 13, 1999, unless we

receive adverse written comments by November 12, 1999. If we receive adverse comments, we will publish a timely withdrawal of this direct final rule in the **Federal Register**, and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at our Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7219.

SUPPLEMENTARY INFORMATION:

- I. What action is EPA taking today?
- II. Why is Collin County, Texas, designated as a lead nonattainment area?
- III. What has the State done to address its lead issue in Collin County?
- IV. What steps must Texas take to change the designation of Collin County from nonattainment to attainment for lead?
- V. Does Collin County now meet the National Ambient Air Quality Standard (NAAQS) for lead?
- VI. Has Texas met all its regulatory requirements in Collin County?
- VII. Has there been an improvement in air quality in Collin County?
- VIII. Has the State demonstrated that it can maintain its Compliance with the lead NAAQS in the future?
- IX. Administrative Requirements.

I. What Action Is EPA Taking Today?

We are approving the lead maintenance plan for Collin County, Texas, and redesignating Collin County to attainment for the lead NAAQS. We are taking this action because the redesignation request and maintenance plan meet the requirements of the Clean Air Act (the Act). We are publishing this rule without prior proposal because we view this as a non-controversial action, and we anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as our proposal, should adverse comments be filed. This rule is

effective on December 13, 1999, without further notice, unless we receive adverse comments by November 12, 1999.

If we receive adverse comments, we will publish a document that withdraws the final rule and informs the public that the rule will not take effect. Any adverse comments we have received will then be addressed in a subsequent final rule. We will not institute a second comment period on this action, so parties interested in commenting should do so at this time.

II. Why Is Collin County, Texas, Designated as a Lead Nonattainment Area?

The Gould National Battery, Incorporated (GNB) smelter, is located in Collin County, Texas, just southwest of the town of Frisco. It produces lead from spent lead-acid batteries and other lead bearing scrap. Dallas, Fort Worth, and Denton, Texas, are all located within 50 kilometers of the GNB facility. The facility currently produces 4.27 tons per year of lead emissions.

Since 1981, lead emissions from the GNB facility have been monitored continuously. Violations of the quarterly arithmetic average of 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) NAAQS for lead were recorded in 1985, 1989, and 1990. Notices of violation were issued by the State to the GNB facility, with requirements to implement certain controls.

On November 6, 1991, pursuant to section 107(d)(5) of the Act, we published the notice of nonattainment designation in the **Federal Register** (57 FR 56694) for the portion of Collin County which encompasses the plant boundaries of the GNB facility. The effective date of the nonattainment designation was January 6, 1992.

III. What Has the State Done To Address Its Lead Issue in Collin County?

For States with areas designated to nonattainment for lead, a State Implementation Plan (SIP) must be developed, pursuant to sections 110(a)(2) and 172(c) of the Act, to show how the area will be brought into attainment. Texas was required to submit a SIP which included the following to us by July 6, 1993:

1. Provisions to assure that reasonably available control measures would be implemented;
- (2) a demonstration (including air quality modeling) that the SIP would provide for attainment as expeditiously as practicable, but no later than January 6, 1997;