

required for the export, reexport, retransfer, or temporary import of a defense article or the performance of a defense service, when made by another person for a department or agency of the U.S. Government:

(1) To a department or agency of the U.S. Government at its request; or

(2) To an entity other than the U.S. Government at the written direction of a department or agency of the U.S. Government or pursuant to an international agreement or arrangement, for an activity authorized for that department or agency in paragraphs (a)(1) through (4) of this section.

(c) *Return to the United States.* No license is required under this subchapter for the return to the United States of a defense article exported pursuant to this section and not subsequently reexported or retransferred other than pursuant to this section, to:

(1) A department or agency of the U.S. Government; or

(2) The person who exported the item.

(d) *Prohibited activities and arms embargoes.* This section does not authorize any department or agency of the U.S. Government to make or authorize any export that is otherwise prohibited by any other administrative provisions or by any statute or that is inconsistent with U.S. arms embargoes or United Nations Security Council Resolutions (*see* § 126.1).

(e) *Export clearance.* For exports shipped other than by a U.S. diplomatic pouch or a U.S. Government aircraft, vehicle, or vessel, an Electronic Export Information (EEI) filing must be submitted to U.S. Customs and Border Protection using its electronic system(s) at the time of export, unless electronic submission of such information is unavailable, in which case U.S. Customs and Border Protection or the Department of Defense transmittal authority will issue instructions.

(f) *Change in end-use or end-user.* Any change in end-use or end-user of a defense article, to any party or use not authorized by this section, requires approval of the Directorate of Defense Trade Controls through a license or other approval.

Andrea Thompson,

Under Secretary for Arms Control and International Security, U.S. Department of State.

[FR Doc. 2019-07696 Filed 4-18-19; 8:45 am]

BILLING CODE 4710-25-P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 552

[Docket ID: USA-2018-HQ-0015]

RIN 0702-AA95

Regulations Affecting Military Reservations

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes subparts containing internal policies concerning real estate claims upon contract, and obsolete information on the operation and use of fishing facilities at Fort Monroe, Virginia and the restriction of training areas on Fort Benjamin Harrison, Indiana. Those military installations have been decommissioned.

DATES: This rule is effective on April 19, 2019.

FOR FURTHER INFORMATION CONTACT: Arthur Dias at 703-697-0843.

SUPPLEMENTARY INFORMATION: These subparts convey internal Army policy and procedures and obsolete regulations for military installations decommissioned through the Defense Base Closure Act of 1990 and the National Defense Authorization Act of Fiscal Year 2002. The subparts are unnecessary.

It has been determined that public comment on the removal of these subparts is impracticable, unnecessary, and contrary to public interest since it is based on removing obsolete information and DoD internal policies and procedures that are publicly available on the Department's website. DoD internal guidance will continue to be published in Engineer Regulation 405-1-21, "Claims and Damages," available at <https://www.publications.usace.army.mil/USACE-Publications/Engineer-Regulations>.

This rule is not significant under Executive Order (E.O.) 12866, "Regulatory Planning and Review," therefore, E.O. 13771, "Reducing Regulation and Controlling Regulatory Costs" does not apply.

List of Subjects in 32 CFR Part 552

Claims, Consumer protection, Federal buildings and facilities, Government employees, Life insurance, Military personnel, Youth organizations.

Accordingly, 32 CFR part 552 is amended as follows:

PART 552—REGULATIONS AFFECTING MILITARY RESERVATIONS

■ 1. The authority citation for part 552 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 3012, 15 U.S.C. 1601; 18 U.S.C. 1382; 31 U.S.C. 71; 40 U.S.C. 258a; 41 U.S.C. 14; 50 U.S.C. 797.

Subpart A—[Removed and Reserved]

■ 2. Amend part 552 by removing and reserving subpart A, consisting of § 552.16.

Subpart K—[Removed and Reserved]

■ 3. Amend part 552 by removing and reserving subpart K, consisting of §§ 552.140 through 552.145.

Subpart N—[Removed and Reserved]

■ 4. Amend part 552 by removing and reserving subpart N, consisting of §§ 552.180 through 552.185.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019-07897 Filed 4-18-19; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2019-0083]

RIN 1625-AA08

Special Local Regulation; Bush River and Otter Point Creek, Harford County, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for certain navigable waters of the Bush River and Otter Point Creek. This action is necessary to provide for the safety of life on these waters located at Edgewood, Harford County, MD, on May 11, 2019, and May 12, 2019, during a high-speed power boat racing event. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or Coast Guard Patrol Commander.

DATES: This rule is effective from 9:30 a.m. on May 11, 2019 to 6:30 p.m. on May 12, 2019. This rule will be enforced from 9:30 a.m. to 6:30 p.m. on May 11, 2019, and, from 9:30 a.m. to 6:30 p.m. on May 12, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2019–0083 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 Mr. Ronald Houck, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410–576–2674, email Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
PATCOM Coast Guard Patrol Commander
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Carolina-Virginia Racing Association of Havre de Grace, MD, notified the Coast Guard that it will be conducting the Flying Point Park Outboard Regatta from 10 a.m. to 6 p.m. on May 11, 2019, and from 10 a.m. to 6 p.m. on May 12, 2019. The high-speed power boat racing event consists of approximately 60 participating outboard hydroplane and runabout race boats of various classes, 9 to 14 feet in length, with 4 to 12 boats racing in 3-lap heats, along a designated, marked racetrack-type course located in Bush River and Otter Point Creek at Edgewood, Harford County, MD. In response, on March 4, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulation; Bush River and Otter Point Creek, Harford County, MD” (84 FR 7310). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this power boat racing race. During the comment period that ended April 3, 2019, we received one comment.

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**. Due to the date of the event, it would be impracticable to make the regulation effective 30 days after publication in the **Federal Register**. Delaying the effective date of this rule is impracticable and contrary to public interest because it would delay the safety measures necessary to respond to potential safety hazards associated with this marine event. Immediate action is

needed to protect participants, spectators, and other persons and vessels during the high-speed race event on these navigable waters.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port Maryland-National Capital Region (COTP) has determined that potential hazards associated with the power boat racing event will be a safety concern for anyone intending to operate in or near the event area. The purpose of this rule is to protect event participants, spectators, and transiting vessels on specified waters of the Bush River and Otter Point Creek before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one public submission to the docket responding to our NPRM published March 4, 2019. We thank the commenter for taking time to review the NPRM and submitting a comment regarding this action.

The comment was in support of the Coast Guard’s rulemaking. However, the commenter stated that because high-speed power boats will pass a certain area, the Coast Guard should make sure to inform the public, especially residents around that area.

Patrol vessels assigned by the COTP Maryland-National Capital Region will be present to monitor the event and enforce the special local regulation. In addition, the COTP Maryland-National Capital Region will notify the public of the specific enforcement times of the regulated area by all appropriate means to affect the widest publicity among the affected segments of the public, including publishing a notice in the **Federal Register** and an article in the Local Notice to Mariners. Broadcast Notice to Mariners will also be made for this event, to begin prior to that start of the scheduled event, and to continue to notify the public, until immediately after its completion.

There are no changes in the regulatory text of this rule from that proposed in the NPRM.

This rule establishes a special local regulation to be enforced from 9:30 a.m. to 6:30 p.m. on May 11, 2019, and from 9:30 a.m. to 6:30 p.m. on May 12, 2019. The regulated area will cover all navigable waters of the Bush River and Otter Point Creek, from shoreline to shoreline, bounded to the north by a line drawn from the western shoreline of the Bush River at latitude 39°27′15″ N, longitude 076°14′39″ W and thence eastward to the eastern shoreline of the Bush River

at latitude 39°27′03″ N, longitude 076°13′57″ W; and bounded to the south by the Amtrak Railroad Bridge, across the Bush River at mile 6.8, between Perryman, MD, and Edgewood, MD. The duration of the special local regulations and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after the power boat racing event, scheduled from 10 a.m. until 6 p.m. on May 11, 2019, and May 12, 2019.

Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this regulation must immediately depart the regulated area. A person or vessel that desires to transit, moor, or anchor within the regulated area must first obtain authorization from the COTP Maryland-National Capital Region or PATCOM. A person or vessel seeking such permission can contact the COTP Maryland-National Capital Region at telephone number 410–576–2693 or on VHF–FM channel 16, or the PATCOM on VHF–FM channel 16 and channel 22A. A vessel within the regulated area must operate at safe speed that minimizes wake. A person or vessel not registered with the event sponsor as a participant or assigned as Official Patrols would be considered a spectator. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign. Official Patrols enforcing this regulated area can be contacted on VHF–FM channel 16 and channel 22A. If permission is granted, the spectator may enter the designated spectator area or must pass directly through the regulated area as instructed by PATCOM. A spectator vessel must not loiter within the navigable channel while within the regulated area. Official Patrols will direct spectator vessels to the designated spectator area. All spectator vessels within the designated spectator area must be anchored or operate at a No Wake Speed while within the designated spectator area. Only participants and Official Patrols are allowed to enter the race area. The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

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 size, duration and time of year of the regulated area, which will impact a small designated area of the Bush River and Otter Point Creek for 18 total enforcement hours. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the status of the regulated area. Moreover, the rule will allow vessels to seek permission to enter the regulated area, and vessel traffic will be able to safely transit the regulated area once the COTP or PATCOM deems it safe to do so.

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 received no comments from the Small Business Administration on this rulemaking. 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 regulated area 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.

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 involves implementation of regulations within 33 CFR part 100 applicable to organized marine events on the navigable waters of the United States. The temporary regulated area will be in effect for 33 hours. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Memorandum For Record for Categorical Excluded Actions supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. 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 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.501T05–0083 to read as follows:

§ 100.501T05-0083 Special Local Regulation; Bush River and Otter Point Creek, Harford County, MD.

(a) *Definitions.* As used in this section:

Buffer Zone is a neutral area that surrounds the perimeter of the Race Area within the regulated area described by this section. The purpose of a buffer zone is to minimize potential collision conflicts with marine event participants or race boats and spectator vessels or nearby transiting vessels. This area provides separation between a Race Area and a specified Spectator Area or other vessels that are operating in the vicinity of the regulated area established by the special local regulations.

Captain of the Port (COTP) Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

Coast Guard Patrol Commander (PATCOM) means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Participant means a person or vessel registered with the event sponsor as participating in the Flying Point Park Outboard Regatta or otherwise designated by the event sponsor as having a function tied to the event.

Race Area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a race area within the regulated area defined by this section.

Spectator means a person or vessel not registered with the event sponsor as participants or assigned as official patrols.

Spectator Area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a spectator area within the regulated area defined by this part.

(b) *Locations.* All coordinates reference Datum NAD 1983.

(1) *Regulated area.* All navigable waters of Bush River and Otter Point Creek, from shoreline to shoreline, bounded to the north by a line drawn from the western shoreline of the Bush River at latitude 39°27'15" N, longitude 076°14'39" W and thence eastward to the eastern shoreline of the Bush River at latitude 39°27'03" N, longitude 076°13'57" W; and bounded to the south

by the Amtrak Railroad Bridge, across the Bush River at mile 6.8, between Perryman, MD and Edgewood, MD. The following locations are within the regulated area:

(2) *Race Area.* The race area is a polygon in shape measuring approximately 540 yards in length by 270 yards in width. The area is bounded by a line commencing at position latitude 39°26'33.1" N, longitude 076°15'46.8" W; thence westerly to latitude 39°26'33.1" N, longitude 076°15'49.3" W; thence northerly to latitude 39°26'37.1" N, longitude 076°15'52.4" W; thence northeasterly to latitude 39°26'40.0" N, longitude 076°15'52.5" W; thence easterly to latitude 39°26'45.9" N, longitude 076°15'32.2" W; thence southeasterly to latitude 39°26'45.3" N, longitude 076°15'30.0" W; thence southerly to latitude 39°26'43.8" N, longitude 076°15'29.1" W; thence southerly to latitude 39°26'42.2" N, longitude 076°15'28.9" W; thence southwesterly to latitude 39°26'40.8" N, longitude 076°15'29.3" W; thence westerly terminating at point of origin.

(3) *Buffer Zone.* The buffer zone surrounds the entire race area described in the preceding paragraph of this section. This area is a polygon in shape and provides a buffer around the perimeter of the race area. The area is bounded by a line commencing at the shoreline at Flying Point Park at position latitude 39°26'31.9" N, longitude 076°15'32.5" W; thence westerly to latitude 39°26'30.5" N, longitude 076°15'52.7" W; thence northerly to latitude 39°26'39.9" N, longitude 076°16'00.0" W; thence easterly to latitude 39°26'51.6" N, longitude 076°15'26.7" W; thence southerly to latitude 39°26'37.0" N, longitude 076°15'22.5" W; thence southerly to latitude 39°26'33.7" N, longitude 076°15'22.8" W, located at the shoreline at Flying Point Park.

(4) *Spectator Area.* The designated spectator area is a polygon in shape and is bounded by a line commencing at position latitude 39°26'39.9" N, longitude 076°15'23.3" W; thence east to latitude 39°26'39.6" N, longitude 076°15'19.4" W; thence south to latitude 39°26'36.6" N, longitude 076°15'18.7" W; thence west to latitude 39°26'37.0" N, longitude 076°15'22.5" W; thence north to point of origin.

(c) *Special local regulations:* (1) The COTP Maryland-National Capital Region or PATCOM may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area must

immediately comply with the directions given by the patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland-National Capital Region or PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland-National Capital Region or PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the PATCOM to request permission to either enter or pass through the regulated area. The PATCOM, and official patrol vessels enforcing this regulated area, can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator may enter the designated Spectator Area or must pass directly through the regulated area as instructed by PATCOM. A vessel within the regulated area must operate at safe speed that minimizes wake. A spectator vessel must not loiter within the navigable channel while within the regulated area.

(4) A person or vessel that desires to transit, moor, or anchor within the regulated area must first obtain authorization from the COTP Maryland-National Capital Region or PATCOM. A person or vessel seeking such permission can contact the COTP Maryland-National Capital Region at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz) or the PATCOM on Marine Band Radio, VHF-FM channel 16 (156.8 MHz).

(5) Only participant vessels and official patrol vessels are allowed to enter the race area.

(6) Spectators are only allowed inside the regulated area if they remain within the designated spectator area. All spectator vessels must be anchored or operate at a No Wake Speed within the designated spectator area. Official patrol vessels will direct spectator vessels to the spectator area. Spectators must contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area at safe speed and without loitering.

(7) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-

FM marine band radio announcing specific event date and times.

(d) *Enforcement officials.* The Coast Guard may be assisted with marine event patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(e) *Enforcement periods.* This section will be enforced from 9:30 a.m. to 6:30 p.m. on May 11, 2019, and, from 9:30 a.m. to 6:30 p.m. on May 12, 2019.

Dated: April 15, 2019.

Joseph B. Loring,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2019-07910 Filed 4-18-19; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 6

[Docket No. PTO-T-2018-0063]

RIN 0651-AD32

International Trademark Classification Changes

Correction

In rule document 2018-26373 beginning on page 62711 in the issue of December 6, 2018, make the following correction:

§ 6.1 International schedule of classes of goods and services [Corrected].

■ On page 62713 in the second column, in the first paragraph of section 6.1, under the heading titled “Goods”, the numerical text entry “1.” was inadvertently omitted and should appear prior to the word “Chemical”.

[FR Doc. C1-2018-26373 Filed 4-18-19; 8:45 am]

BILLING CODE 1301-00-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R07-OAR-2018-0837; FRL-9992-09-Region 7]

Approval of State Plans for Designated Facilities and Pollutants; Missouri; Diammonium Phosphate Fertilizer Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to rescind the current state plan and

associated regulation and to accept the negative declaration submitted by the State of Missouri for Diammonium Phosphate Fertilizer units. The negative declaration submitted by the Missouri Department of Natural Resources (MoDNR) certifies that Diammonium Phosphate Fertilizer (DPF) units subject to section 111(d) of the Clean Air Act (CAA) do not operate within the jurisdiction of the State of Missouri. The EPA is accepting the negative declaration in accordance with the requirements of the CAA.

DATES: This final rule is effective on May 20, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2018-0837. All documents in the docket are listed on the <https://www.regulations.gov> website. 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 through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Larry Gonzalez, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7041 or by email at gonzalez.larry@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” or “our” refer to the EPA.

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- I. Background
- II. What action is the EPA taking?
- III. Statutory and Executive Order Reviews

I. Background

The Clean Air Act (CAA) requires that state regulatory agencies implement emission guidelines and associated compliance times using a state plan developed under sections 111(d) of the CAA. The general provisions for the submittal and approval of state plans are codified in 40 CFR part 60, subpart B and 40 CFR part 62, subpart A. Section 111(d) establishes general requirements and procedures on state plan submittals for the control of designated pollutants. States have options other than submitting a state plan in order to fulfill their obligations under CAA section 111(d). If a state does not have any

existing units for the relevant emission guidelines, a letter can be submitted certifying that no such units exist within the state (*i.e.*, a negative declaration) in lieu of a state plan, in accordance with 40 CFR 60.5010. The negative declaration exempts the state from the requirements of subpart B that would otherwise require the submittal of a CAA section 111(d) plan.

On August 6, 1975, the EPA finalized standards of performance for new stationary sources from the phosphate fertilizer industry which included diammonium phosphate fertilizer production plants under the authority of section 111 of the CAA. As required by the CAA 111(d) and 40 CFR part 60, subpart B, each state must adopt and submit a plan for the control of pollutants from existing facilities regulated under section 111(b) New Source Performance Standards following publication of a notice of availability of an applicable emission control guideline unless no such facilities exist within the state. If there are no facilities in the state, the state is required to submit a letter of certifying that fact.

In response to these requirements, the State of Missouri submitted a plan for the control of fluoride emissions from phosphate fertilizer plants on January 3, 1985. The state plan was based on the state regulation 10 CSR 10-3.160 “Restriction of Emissions from Diammonium Phosphate Fertilizer Plants”. At the time of the submittal there was a single operating phosphate fertilizer plant in the State located in Joplin, Missouri. On March 14, 1986, the EPA approved the state plan and associated regulation submitted by the State of Missouri pursuant to CAA section 111(d) and 40 CFR part 60, subpart B. Subsequent to this state plan approval, the single phosphate fertilizer plant operating in Joplin, Missouri ceased fertilizer production and dismantled its fertilizer production equipment in between the years of 2003 and 2004.

On December 3, 2018, MoDNR submitted a negative declaration to the EPA, certifying that there are no operating phosphate fertilizer plants in Missouri, and requested that the EPA rescind its previous state plan applicable to phosphate fertilizer production facilities. Additionally, MoDNR notified the EPA that it would rescind its 10 CSR 10-3.160 rule that controlled emissions of fluoride from diammonium phosphate fertilizer plants.

On February 4, 2019, the EPA published in the **Federal Register** (84 FR 1039) a rule proposing to accept