

substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

#### Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year

on any governmental entity or the private sector.

#### List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 23, 1999.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

#### PART 946—VIRGINIA

1. The authority citation for Part 946 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 946.25 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

#### § 946.25 Approval of Virginia abandoned mine land reclamation plan amendments.

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* *
September 10, 1999 .....	January 7, 2000 .....	Revisions to the Virginia State Reclamation Plan corresponding to 30 CFR 884.13(c)(2)—Ranking and Selection: Reclamation Projects Receiving Less Than 50% Government Funding.

[FR Doc. 00-421 Filed 1-6-00; 8:45 am]

BILLING CODE 4310-05-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-99-130]

RIN 2115-AA97

#### Safety Zone: New York Harbor and Hudson River Fireworks.

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing five permanent safety zones for fireworks displays located on Upper and Lower New York Bay, the Hudson River, and Raritan Bay. This action is necessary to provide for the safety of life on navigable waters during the events. This action establishes permanent exclusion areas that are only active prior to the start of the fireworks display until shortly after the fireworks display is completed, and is intended to restrict vessel traffic in a portion of Upper and Lower New York Bay, the Hudson River, and Raritan Bay.

**DATES:** This rule is effective February 7, 2000.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-99-130) and are available for inspection or copying at

Waterways Oversight Branch, Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, room 205, between 8 a.m. e.s.t. and 3 p.m. e.s.t., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On October 6, 1999, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: New York Harbor and Hudson River Fireworks in the **Federal Register** (64 FR 54252). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

On October 25, 1999, we published a correction notice entitled Safety Zone: New York Harbor and Hudson River Fireworks in the **Federal Register** (64 FR 57419). This notice corrected the Latitude position of the barge location east of Ellis Island.

#### Background and Purpose

The Coast Guard is establishing five permanent safety zones that will be activated for fireworks displays occurring throughout the year that are not held on an annual basis but are normally held in one of these five locations. The five locations are east of Liberty and Ellis Islands in Upper New York Bay; east of South Beach, Staten Island in Lower New York Bay; west of Pier 60, Manhattan, on the Hudson River; and Raritan Bay in the vicinity of

the Raritan River Cutoff and Ward Point Bend (West). The number of events held in these locations has increased from three in 1996 to 21 in 1998. The Coast Guard has received 16 applications for fireworks displays in these areas to date in 1999. In the past, temporary safety zones were established with limited notice for preparation by the U.S. Coast Guard and limited opportunity for public comment. Establishing permanent safety zones by notice and comment rulemaking gave the public the opportunity to comment on the safety zone locations, size, and length of time the zones will be active. The Coast Guard has received no prior notice of any impact caused by the previous events.

The five safety zones are as follows:

The safety zone at Liberty Island includes all waters of Upper New York Bay within a 360-yard radius of the fireworks barge located in Federal Anchorage 20-C, in approximate position 40°41'16.5"N 074°02'23" W (NAD 1983), about 360 yards east of Liberty Island. The safety zone prevents vessels from transiting a portion of Federal Anchorage 20-C and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Recreational and commercial vessel traffic will be able to anchor in the unaffected northern and southern portions of Federal Anchorage 20-C. Federal Anchorages 20-A and 20-B, to the north, and Federal Anchorages 20-D and 20-E, to the south, are also available for vessel use. Marine traffic will still be able to transit through

Anchorage Channel, Upper Bay, during the event as the safety zone only extends 125 yards into the 925-yard wide channel. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this safety zone.

The safety zone at Ellis Island includes all waters of Upper New York Bay within a 360-yard radius of the fireworks barge located between Federal Anchorages 20-A and 20-B in approximate position 40°41'45" N 074°02'09" W (NAD 1983), about 365 yards east of Ellis Island. The safety zone prevents vessels from transiting a portion of Federal Anchorages 20-A and 20-B and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Recreational and commercial vessel traffic will be able to anchor in the unaffected northern and southern portions of Federal Anchorages 20-A and 20-B. Federal Anchorages 20-C, 20-D, and 20-E, to the south, are also available for vessel use. Marine traffic will still be able to transit through Anchorage Channel, Upper Bay, during the event as the safety zone only extends 150 yards into the 900-yard wide channel. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this safety zone.

The safety zone east of South Beach, Staten Island includes all waters of Lower New York Bay within a 360-yard radius of the fireworks barge located in approximate position 40°35'11" N 074°03'42" W (NAD 1983), about 350 yards east of South Beach, Staten Island. The safety zone prevents vessels from transiting a portion of Lower New York Bay and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through Lower New York Bay during the event. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this safety zone.

The safety zone off Pier 60, Manhattan includes all waters of the Hudson River within a 360-yard radius of the fireworks barge in approximate position 40°44'49" N 074°01'02" W (NAD 1983), about 500 yards west of Pier 60, Manhattan, New York. The safety zone prevents vessels from transiting a portion of the Hudson River and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through the eastern 150 yards of the 850-yard wide Hudson River during the event. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this safety zone.

Additionally, vessels are not precluded from mooring at or getting underway from Piers 59-62 or from the Piers at Castle Point, New Jersey due to this safety zone.

The safety zone in Raritan Bay includes all waters of the Raritan River Cutoff and Ward Point Bend (West) within a 240-yard radius of the fireworks barge in approximate position 40°30'04" N 074°15'35" W (NAD 1983), about 240 yards east of Raritan River Cutoff Channel Buoy 2 (LLNR 36595). The safety zone prevents vessels from transiting a portion of Raritan Bay in the vicinity of the Raritan River Cutoff and Ward Point Bend (West). It is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through the eastern 140 yards of the 230-yard wide Ward Point Bend (West) during the event. Traffic that can not transit through the closed Raritan River Cutoff can transit through Ward Point Bend (West) by using South Amboy Reach, Great Beds Reach, Ward Point Secondary Channel, and Ward Point Bend (East). Additionally, vessels will not be precluded from mooring at or getting underway from any marinas or piers at Perth Amboy, New Jersey due to this safety zone.

The actual dates that these safety zones will be activated are not known by the Coast Guard at this time. Coast Guard Activities New York will give notice of the activation of each safety zone by all appropriate means to provide the widest publicity among the affected segments of the public. This will include publication in the Local Notice to Mariners. Marine information broadcasts will also be made for these events beginning 24 to 48 hours before the event is scheduled to begin. Facsimile broadcasts will also be made to notify the public. The Coast Guard expects that the notice of the activation of each permanent safety zone in this rulemaking will normally be made between thirty and fourteen days before the zone is actually activated. Fireworks barges used in the locations stated in this rulemaking will also have a sign on the port and starboard side of the barge labeled "FIREWORKS BARGE". This will provide on-scene notice that the safety zone the fireworks barge is located in is or will be activated on that day. This sign will consist of 10" high by 1.5" wide red lettering on a white background. There will also be a Coast Guard patrol vessel on scene 30 minutes before the display is scheduled to start until 15 minutes after its completion to enforce each safety zone.

The effective period for each safety zone is from 8 p.m. e.s.t. to 1 a.m. e.s.t. However, vessels may enter, remain in, or transit through these safety zones during this time frame if authorized by the Captain of the Port New York, or designated Coast Guard patrol personnel on scene, as provided for in 33 CFR 165.23. Generally, blanket permission to enter, remain in, or transit through these safety zones will be given except for the 45-minute period that a Coast Guard patrol vessel is present.

This rule is being established to provide for the safety of life on navigable waters during the events. It also gave the marine community the opportunity to comment on the zone locations, size, and length of time the zones will be active.

#### Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rulemaking. This Final rule is the same as the proposed rule except that the Latitude position of the barge location east of Ellis Island has been corrected. On Oct 25, 1999, we notified the public of this Latitude position change when we published a correction notice entitled Safety Zone: New York Harbor and Hudson River Fireworks in the **Federal Register** (64 FR 57419).

#### Regulatory Evaluation

This 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. The Office of Management and Budget has not reviewed it 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).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zones, and all of the zones are in areas where the Coast Guard expects insignificant adverse impact on all mariners from the zones' activation. Vessels may safely anchor to the north and south of the zones by Liberty and Ellis Islands. Vessels may also still transit through Anchorage Channel, Lower New York Bay, the Hudson River, and Ward Point Bend (West) in Raritan Bay during these events. Vessels will not be precluded from getting underway, or mooring at, Piers 59-62 and the Piers at Castle Point, New Jersey during displays off

Pier 60, nor from marinas and piers at Perth Amboy, New Jersey during displays in the Raritan River Cutoff. Advance notifications will also be made to the local maritime community by the Local Notice to Mariners, marine information broadcasts, and facsimile. Fireworks barges used in these locations will also have a sign on the port and starboard side of the barge labeled "FIREWORKS BARGE". This sign will consist of 10" high by 1.5" wide red lettering on a white background. Additionally, the Coast Guard anticipates that these safety zones will only be activated 20–25 times per year. These safety zones have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would 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 would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to anchor in or transit through the affected portions of New York Harbor, and the Hudson River during the times these zones are activated.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: the minimal time that vessels will be restricted from the zones, and all of the zones are in areas where the Coast Guard expects insignificant adverse impact on all mariners from the zones' activation. Vessels may safely anchor to the north and south of the zones by Liberty and Ellis Islands. Vessels may also still transit through Anchorage Channel, Lower New York Bay, the Hudson River, and Ward Point Bend (West) in Raritan Bay during these events. Vessels will not be precluded from getting underway, or mooring at, Piers 59–62 and the Piers at Castle Point, New Jersey during displays off Pier 60, nor from marinas and piers at Perth Amboy, New Jersey during displays in the Raritan River Cutoff. Before the effective period,

we will issue maritime advisories widely available to users of the Port of New York/New Jersey by the local notice to mariners, marine information broadcasts, and facsimile.

### 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

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order. No comments were received nor changes made to the NPRM.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate. No comments were received nor changes made to the NPRM.

### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. No comments were received nor changes made to the NPRM.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. No comments were received nor changes made to the NPRM.

### Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant

Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule fits category 34(g) since implementation of this action will not result in any significant cumulative impacts on the human environment, substantial controversy or substantial change to existing environmental conditions, impacts which are more than minimal on properties protected under 4(f) of the DOT Act as superseded by Public Law 97–449, and section 106 of the National Historic Preservation Act; and inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**. No comments were received nor changes made to the NPRM.

### List of Subjects

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(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add § 165.168 to read as follows:

### § 165.168 Safety Zones: New York Harbor and Hudson River Fireworks.

(a) *Liberty Island Safety Zone:* All waters of Upper New York Bay within a 360-yard radius of the fireworks barge in approximate position 40°41'16.5"N 074°02'23" W (NAD 1983), located in Federal Anchorage 20–C, about 360 yards east of Liberty Island.

(b) *Ellis Island Safety Zone:* All waters of Upper New York Bay within a 360-yard radius of the fireworks barge located between Federal Anchorages 20–A and 20–B, in approximate position 40°41'45" N 074°02'09" W (NAD 1983), about 365 yards east of Ellis Island.

(c) *South Beach, Staten Island Safety Zone:* All waters of Lower New York Bay within a 360-yard radius of the fireworks barge in approximate position 40°35'11" N 074°03'42" W (NAD 1983), about 350 yards east of South Beach, Staten Island.

(d) *Pier 60, Hudson River Safety Zone:* All waters of the Hudson River within a 360-yard radius of the fireworks barge

in approximate position 40°44'49" N 074°01'02" W (NAD 1983), about 500 yards west of Pier 60, Manhattan, New York.

(e) *Raritan Bay Safety Zone*: All waters of Raritan Bay in the vicinity of the Raritan River Cutoff and Ward Point Bend (West) within a 240-yard radius of the fireworks barge in approximate position 40°30'04" N 074°15'35" W (NAD 1983), about 240 yards east of Raritan River Cutoff Channel Buoy 2 (LLNR 36595).

(f) *Notification*. Coast Guard Activities New York will cause notice of the activation of these safety zones to be made by all appropriate means to effect the widest publicity among the affected segments of the public, including publication in the local notice to mariners, marine information broadcasts, and facsimile. Fireworks barges used in these locations will also have a sign on their port and starboard side labeled "FIREWORKS BARGE". This sign will consist of 10" high by 1.5" wide red lettering on a white background.

(g) *Effective Period*. This section is effective from 8 p.m. e.s.t. to 1 a.m. e.s.t. each day a barge with a "FIREWORKS BARGE" sign on the port and starboard side is on-scene in a location listed in paragraphs (a) through (e) of this section. Vessels may enter, remain in, or transit through these safety zones during this time frame if authorized by the Captain of the Port New York or designated Coast Guard patrol personnel on scene.

(h) *Regulations*. (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard.

Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: December 14, 1999.

**R.E. Bennis,**

*Captain, Coast Guard,*

*Captain of the Port, New York.*

[FR Doc. 00-350 Filed 1-6-00; 8:45 am]

**BILLING CODE 4910-15-U**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TN-195-9947(a), TN-188-9959(a); FRL-6519-4]

### Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Revision to Rule Governing Monitoring of Source Emissions

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

**ACTION:** Direct final rule.

**SUMMARY:** On February 24, 1997, and May 8, 1997, the Tennessee Department of Environment and Conservation submitted revisions to the Tennessee State Implementation Plan (SIP). These revisions consisted of amendments to Rules 1200-3-12-.04 Monitoring Required for Determining Compliance of Certain Large Sources and 1200-3-10-.02 Monitoring of Source Emissions, Recording and Reporting of the Same are Required. Tennessee submitted these revisions to clarify the reporting requirements. EPA is approving the aforementioned changes to the SIP because they are consistent with the Clean Air Act and EPA requirements.

**DATES:** This direct final rule is effective on March 7, 2000 without further notice, unless EPA receives adverse comment by February 7, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Office of the **Federal Register**, 800 North Capitol Street, NW, Suite 700, Washington, DC.

Tennessee Department of Environment and Conservation, 9th Floor L & C Annex, 401 Church St, Nashville, TN 37243-1531.

**FOR FURTHER INFORMATION CONTACT:** Randy Terry at the above Region 4 address or at 404-562-9032.

**SUPPLEMENTARY INFORMATION:** On February 24, 1997, the Tennessee Department of Environment and

Conservation submitted a revision to paragraph (1) of rule 1200-3-12-.04. This revision was made to change an incorrect reference to a subparagraph (e) to the correct reference of subparagraph (d).

On May 8, 1997, the Tennessee Department of Environment and Conservation submitted revisions to Subpart (i) of part 1. of Subparagraph (c) of paragraph (2) of Rule 1200-3-10-.02 of the Tennessee SIP. These revisions delete the word "or" and add the language "in excess of the applicable emission standard or all" to the first sentence between the words "averages" and the number "24" so that as amended, the subpart shall read:

1. (i) The source owner or operator shall report all 3-hour averages in excess of the applicable emission standard or all 24-hour averages in units of the applicable emission standard. The 3-hour and 24-hour values shall be computed by taking the average of three contiguous or 24 contiguous one-hour values of sulfur dioxide emissions. The one-hour average values may be obtained by integration over the one-hour period or be computed from four or more data points equally spaced over each one-hour period. Data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included on the data averages.

### Final Action

EPA is approving the aforementioned changes to the State Implementation Plan (SIP) because they are consistent with the Clean Air Act and EPA requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective March 7, 2000 without further notice unless the Agency receives relevant adverse comments by February 7, 2000.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on this action should do so at this time. If no such comments are received, the public is