

at <http://www.msha.gov/REGSINFO.HTM>.

SUPPLEMENTARY INFORMATION:

I. Proposed Rule for High-Voltage Continuous Mining Machines

On July 16, 2004 we published a proposed rule in the **Federal Register** (69 FR 42812) addressing design requirements for approval of high-voltage continuous mining machines operating in face areas of underground mines. The rule also proposed to establish new mandatory electrical safety standards for the installation, use, and maintenance of high-voltage continuous mining machines used in underground coal mines. The provisions would enable mines to safely utilize high-voltage continuous mining machines with enhanced safety protection from fire, explosion, and shock hazards without the need for mine operators to file petitions for modification to use high-voltage continuous mining machines.

Also in that notice we announced that four public hearings would be held in

September 2004. The post-hearing comment period was scheduled to close on October 14, 2004.

II. Proposed Rule for Low- and Medium-Voltage Diesel Powered Electrical Generators

On June 25, 2004, we published a proposed rule in the **Federal Register**, (69 FR 35992), amending low- and medium-voltage three-phase circuits used underground. It would allow the use of low- and medium-voltage diesel-powered electrical generators as an alternative means of powering electrical equipment. The generators are portable and are used to power electrical equipment when moving the equipment in, out, and around the mine and when performing work in areas where permissible equipment is not required. The proposed rule would eliminate the need for mine operators to file petitions for modification to use these generators to power electrical equipment while maintaining the existing level of protection for miners.

On July 26, 2004, we published a notice in the **Federal Register**, (69 FR

44480), announcing the dates and locations of four public hearings. The hearings were scheduled to be held on the same days and in the same locations as the hearings for the HVCM proposed rule. The post-hearing comment period was scheduled to close on October 14, 2004.

III. Public Hearings

Since announcement of the public hearings for both rules, we have changed the dates and locations of the hearings. We will still hold four public hearings for both proposed rules; however, the hearings will be held in November, 2004 instead of September, 2004. The hearings addressing HVCM will begin at 9 a.m. local time each day; the hearings addressing Low- and Medium-Voltage Diesel Powered Electrical Generators will be held on the same days, beginning at 1 p.m. local time and will end after the last speaker testifies. The hearings will be held on the following dates at the locations indicated:

Date	Location	Telephone
November 4, 2004	Little America Hotel, 500 S Main Street, Salt Lake City, Utah 84101	(801) 363-6781
November 16, 2004	Sheraton Birmingham, 2101 Richard Arrington Jr. Blvd. North, Birmingham, Alabama 35203.	(205) 324-5000
November 18, 2004	Sheraton Suites Lexington, 2601 Richmond Road, Lexington, Kentucky 40509	(859) 268-0060
November 30, 2004	Radisson Hotel at Waterfront Place, 2 Waterfront Place, Morgantown, West Virginia 26501.	(304) 296-1700

If individuals or organizations wish to make an oral presentation, we ask that you submit your request at least 5 days prior to the hearing dates. You do not have to make a written request to speak; however, the speakers who make a request in advance will speak first. Any unallotted time will be made available for persons making same-day requests. These commenters will speak in the order they sign in.

The hearings will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations to a panel. At the discretion of the presiding official, the time allocated to speakers for their presentation may be limited. Speakers and other attendees may also present information to the MSHA panel for inclusion in the rulemaking record.

The hearings will be conducted in an informal manner. The hearing panel may ask questions of speakers. Although formal rules of evidence or cross examination will not apply, the presiding official may exercise discretion to ensure the orderly progress

of the hearing and may exclude irrelevant or unduly repetitious material and questions.

A verbatim transcript of the proceedings will be included in the rulemaking record. Copies of this transcript will be available to the public, and can be viewed at <http://www.msha.gov>.

IV. Close of Comment Periods

We will accept post-hearing written comments and other appropriate data for the record from any interested party, including those not presenting oral statements, prior to the close of the December 10, 2004 post-hearing comment periods.

Dated: August 17, 2004.

Dave D. Lauriski,

Assistant Secretary for Mine Safety and Health.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01-04-099]

RIN 2115-AA00

Safety Zone; Wiscasset, ME, Demolition of Maine Yankee Former Containment Building

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone around the former Maine Yankee Nuclear Power Plant during the demolition of the containment building. This safety zone is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with the demolition of a large building by controlled implosion. Entry into this safety zone will be prohibited unless authorized by

the Captain of the Port, Portland, Maine during the specified closure periods.

DATE: Comments and related material must reach the Coast Guard on or before September 2, 2004.

ADDRESSES: You may mail comments and related material to Marine Safety Office Portland, 27 Pearl Street, Portland, ME 04101. Marine Safety Office Portland maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of the docket and will be available for inspection or copying at Marine Safety Office Portland between the hours of 8 a.m. EDT and 4 p.m. EDT, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign J. B. Bleacher, Port Operations Department, Marine Safety Office Portland at (207) 780-3251.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-04-099), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Portland at the address listed under **ADDRESSES** explaining why one may be beneficial. If we determine that one would aid in this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

On July 20, 2004 representatives of Maine Yankee Nuclear Power Plant presented the Coast Guard with plans for the demolition of a former containment building. Maine Yankee plans to use controlled explosive charges to bring down the containment building. The tentative date for this

operation is the second week of September 2004 but may be changed earlier or later, due to weather, winds, or other unforeseen changes in project scheduling. This safety zone will remain in effect approximately one hour before and one hour after the scheduled demolition. Due to hazards associated with the demolition of a large building, this temporary safety zone will be needed to ensure the safety of the maritime community and workers involved with the project during all portions of this evolution.

Start date for this project is scheduled for the second week of September 2004, but is subject to change.

Discussion of Proposed Rule

This proposed rule would establish a safety zone in all navigable waters 1000-feet around the former containment building at 321 Old Ferry Road, Wiscasset, Maine, from a point located at Latitude 43° 57' 00" N, Longitude 069° 41' 42" W. This safety zone is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with the demolition of a large building by controlled implosion. The Captain of the Port, Portland, Maine will notify the marine community when this zone will be enforced using marine safety information broadcasts and on-scene notifications by Coast Guard personnel and patrol vessels. The Captain of the Port, Portland Maine, using marine safety information broadcasts, or on-scene notifications, or both, also will notify the marine community when this zone will not be enforced and when a general permission to enter is granted.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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 Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation of the regulatory policies and procedures of DHS is unnecessary. The effect of this proposed regulation will not be significant for several reasons: there will be impact on the navigational channel for only a minimal amount of time, there will be ample space for vessels to navigate around the zone, and broadcast

notifications will be made to the maritime community advising them of the boundaries of the zone before and during its effective period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in these safety zones during this demolition event. However, this proposed rule will not have a significant economic impact on a substantial number of small entities due to the minimal time that vessels will be restricted from the area, there will be ample space for vessels to maneuver and navigate around the zone, and advance notifications will be made to the local maritime community by marine information broadcasts.

If you think your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Public Law 104-121], we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Ensign J.B. Bleacher, Marine Safety Office Portland, at (207) 780-3251.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

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 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management system practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

A draft “Environmental Analysis Check List” and a draft “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

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 proposes to amend 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. 1226, 1231; 46 U.S.C. 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add temporary § 165.T01–099 to read as follows:

§ 165.T01–099 Safety Zone; Wiscasset, Maine, Demolition of Maine Yankee former containment building.

(a) *Location.* The following area is a safety zone: All navigable waters within 1000 feet around the former Maine Yankee containment building from a point located at Latitude 43°57′00″ N., Longitude 69°41′ 42″ W.

(b) *Effective date.* This section is effective from 12:01 a.m. EDT on September 1, 2004, to 11:59 p.m. EDT on September 30, 2004.

(c) *Regulations.* (1) In accordance with the general regulations contained in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port (COTP) Portland, Maine or his designated representative.

(2) All persons and vessels shall comply with the instructions of the COTP, or the designated U.S. Coast Guard representative. Designated U.S. Coast Guard representatives include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels. Emergency response vessels are authorized to move within the zone, but must abide by restrictions imposed by the COTP or his designated representative. Upon being hailed by U.S. Coast Guard personnel or a U.S. Coast Guard vessel, via siren, radio, flashing light, or other means, those hailed shall proceed as directed.

(3) Entry or movement within this zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

Dated: August 6, 2004.

Gregory D. Case,
Lieutenant Commander, U.S. Coast Guard,
Acting Captain of the Port, Portland, Maine.
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