

where State Highway 17 departs from State Highway 9; then

(22) Proceed east along State Highway 17 approximately 0.25 mile, crossing over the Connecticut River, to the highway's intersection with State Highway 17A; then

(23) Proceed north along State Highway 17A approximately 3 miles to its intersection with State Highway 17; then

(24) Proceed north along State Highway 17 approximately 8 miles to its intersection with State Highway 94; then

(25) Proceed east along State Highway 94 approximately 4 miles to its intersection with State Highway 83; then

(26) Proceed north along State Highway 83 approximately 25 miles, returning to the beginning point.

Signed: July 9, 2019.

Mary G. Ryan,

Acting Administrator.

Approved: September 23, 2019.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Simplified Proceedings

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Direct final rule.

SUMMARY: The Federal Mine Safety and Health Review Commission (the "Commission") is an independent adjudicatory agency that provides hearings and appellate review of cases arising under the Federal Mine Safety and Health Act of 1977. On December 28, 2010, the Commission published a final rule which set forth procedures for simplified proceedings. The Commission implemented the simplified proceedings rule as a pilot program. After evaluating the pilot program, the Commission has determined that withdrawal of the simplified proceedings rule is necessary at this time.

DATES: This final rule is effective November 25, 2019 without further action, unless adverse comment is received by November 12, 2019. If adverse comment is received, the Commission will publish a timely withdrawal of this direct final rule in

the **Federal Register** while the Commission considers appropriate action with respect to its simplified proceedings rule.

ADDRESSES: Written comments should be mailed to Michael A. McCord, General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 1331 Pennsylvania Ave. NW, Suite 520N, Washington, DC 20004-1710. Electronic comments should state "Comments on Simplified Proceedings" in the subject line and be sent to RulesComments@fmshrc.gov.

FOR FURTHER INFORMATION CONTACT:

Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, at (202) 434-9935.

SUPPLEMENTARY INFORMATION:

A. Background

On December 28, 2010 (75 FR 81459), the Commission published in the **Federal Register** a final rule to simplify the procedures for handling certain civil penalty proceedings. The Commission explained that since 2006, the number of new cases filed with the Commission had dramatically increased. The simplified procedures were intended to help the Commission manage its burgeoning caseload by streamlining the administrative process for the Commission's simplest cases. The Commission implemented the rule as a pilot program.

In evaluating the efficacy of the pilot, the Commission determined that the simplified proceedings rule has not operated as intended. The Commission had anticipated that streamlined procedures would better support settlement. For instance, discovery is not permitted under the simplified proceedings rule, except as ordered by a Judge. 29 CFR 2700.107. Rather, the simplified procedures require a mandatory disclosure of information by parties (29 CFR 2700.105), followed by a mandatory pre-hearing conference that requires in part a discussion of settlement of the case. 29 CFR 2700.106. It appears, however, that simplified proceedings settle at essentially the same rate as other civil penalty proceedings governed by conventional procedures.

Moreover, the Commission determined that the compressed timeframes set forth in the simplified proceedings rule had unintended negative consequences. The simplified proceedings rule sets forth timeframes that are more abbreviated than those set forth in conventional proceedings for such matters as the disclosure of

information by the parties, the conducting of a pre-hearing conference, and the conducting of a hearing. As a consequence of meeting these requirements, the Commission's simplest cases, which were designated as simplified proceedings, were often given priority over more complex cases, which were not designated as simplified proceedings. In addition, the Commission's resources were disproportionately diverted to its simplest cases.

Based upon its evaluation of the simplified proceedings pilot program, the Commission has reconsidered the utility of a special set of procedures for its simplest cases at the present time. The Commission's overall caseload has significantly decreased since the simplified proceedings rule was promulgated. Moreover, parties may request on a case-by-case basis that the Commission adapt the Commission's conventional procedures as necessary to expedite or simplify the processing of a case.

B. Notice and Public Procedure

1. Executive Orders

The Commission is an independent regulatory agency under section 3(b) of Executive Order ("E.O.") 12866 (Sept. 30, 1993), 58 FR 51735 (Oct. 4, 1993); E.O. 13563 (Jan. 18, 2011), 76 FR 3821 (Jan. 21, 2011); E.O. 13771 (Jan. 30, 2017), 82 FR 9339 (Feb. 3, 2017); E.O. 13777 (Feb. 24, 2017), 82 FR 12285 (Mar. 1, 2017); and E.O. 13132 (Aug. 4, 1999), 64 FR 43255 (Aug. 10, 1999).

The Commission has determined that this rulemaking does not have "takings implications" under E.O. 12630 (Mar. 15, 1988), 53 FR 8859 (Mar. 18, 1988).

The Commission has determined that these regulations meet all applicable standards set forth in E.O. 12988 (Feb. 5, 1996), 61 FR 4729 (Feb. 7, 1996).

2. Statutory Requirements

Although notice-and-comment rulemaking requirements under the Administrative Procedure Act ("APA") do not apply to rules of agency procedure (5 U.S.C. 553(b)(3)(A)), the Commission invites members of the interested public to submit comments on this final rule. The Commission will accept public comment until November 12, 2019.

The Commission has determined that this rulemaking is exempt from the requirements of the Regulatory Flexibility Act ("RFA") (5 U.S.C. 601 *et seq.*), because the proposed rule would not have a significant economic impact on a substantial number of small entities.

The Commission has determined that this rule is not a “major rule” under the Small Business Regulatory Enforcement Fairness Act (“SBREFA”) (5 U.S.C. 804(2)).

The Commission has determined that the Paperwork Reduction Act (“PRA”) (44 U.S.C. 3501 *et seq.*) does not apply because these rules do not contain any information collection requirements that require the approval of the OMB.

The Commission has determined that the Congressional Review Act (“CRA”) (5 U.S.C. 801 *et seq.*) does not apply because, pursuant to 5 U.S.C. 804(3)(C), these rules are rules of agency procedure or practice that do not substantially affect the rights or obligations of non-agency parties.

The Commission has determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment requiring an environmental assessment under the National Environmental Policy Act (“NEPA”) (42 U.S.C. 4321 *et seq.*).

The Commission is an independent regulatory agency, and as such, is not subject to the requirements of the Unfunded Mandates Reform Act (“UMRA”) (2 U.S.C. 1532 *et seq.*).

List of Subjects in 29 CFR Part 2700

Administrative practice and procedure, Mine safety and health, Penalties, Whistleblowing.

Accordingly, 29 CFR part 2700 is amended as follows:

PART 2700—PROCEDURAL RULES

- 1. The authority citation for part 2700 continues to read as follows:

Authority: 30 U.S.C. 815, 820, 823, and 876.

Subpart J—[Removed and Reserved]

- 2. Subpart J, consisting of §§ 2700.100 through 2700.110, is removed and reserved.

Dated: October 7, 2019.

Marco M. Rajkovich, Jr.,

Chairman, Federal Mine Safety and Health Review Commission.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0819]

RIN 1625–AA00

Safety Zone; Monte Foundation Fireworks Display, Soquel Cove, Capitola, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of Soquel Cove near the Capitola Wharf in support of the Monte Foundation Fireworks Display on October 13, 2019. This safety zone is necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective from 7:30 p.m. to 8:50 p.m. on October 13, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2019–0819 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 Lieutenant Jennae Cotton, Waterways Management, U.S. Coast Guard; telephone (415) 399–3585, email SFWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port San Francisco
DHS Department of Homeland Security
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are

“impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking with respect to this rule because it is impracticable. The Coast Guard did not receive final details for this event until September 23, 2019. It is impracticable to go through the entire notice of proposed rulemaking process because the Coast Guard must establish this temporary safety zone by October 13, 2019 and lacks sufficient time to provide a reasonable comment period and consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For similar reasons as stated above, notice and comment procedures would be impracticable in this instance due to the short notice provided for this event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco has determined that potential hazards associated with the Monte Foundation Fireworks Display on October 13, 2019, will be a safety concern for anyone within a 350-foot radius of the fireworks display site starting 30 minutes before the fireworks display is scheduled to commence and ending 30 minutes after the conclusion of the fireworks display. For this reason, this temporary safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters around the fireworks firing site during the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone around the fireworks firing site for the Monte Foundation Fireworks Display. At 7:30 p.m. on October 13, 2019, 30 minutes prior to the commencement of the 20-minute fireworks display, the safety zone will encompass the navigable waters of Soquel Cove, from surface to bottom, within a circle formed by connecting all points 350 feet out from the fireworks firing site located on the Capitola Wharf at approximate position 36°58′10″ N, 121°57′12″ W (NAD 83). The safety zone will terminate at 8:50 p.m. on October 13, 2019.

This regulation is needed to keep spectators and vessels away from the immediate vicinity of the fireworks firing site to ensure the safety of