

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 4, 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 948—WEST VIRGINIA

1. The authority citation for part 948 continues to read as follows:

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

2. Section 948.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
April 28, 1997	May 14, 1999	W.Va. Code 22-3 Section 13(c)(3) [not approved].

3. Section 948.16 is amended by adding new paragraph (iii) to read as follows:

§ 948.16 Required regulatory program amendments.

* * * * *

(iii) By July 13, 1999, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to:

(1) Amend section 22-3-13(c)(3) of the West Virginia program to remove the phrase "or fish and wildlife habitat and recreation lands"; and

(2) Amend "public use" at section 22-3-13(c)(3) to include the term "facility" and to further clarify that the term will be interpreted the same as "public facility (including recreation facilities) use" at SMCRA section 515(c)(3).

[FR Doc. 99-12212 Filed 5-13-99; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 117**

[CGD 08-99-028]

Drawbridge Operating Regulation; Gulf Intracoastal Waterway, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation in 33 CFR 117.451(e) governing the operation of the SR 27 drawbridge across the Gulf Intracoastal Waterway, mile 243.8, west of Harvey Canal Locks, near Hackberry, Calcasieu Parish, Louisiana. This deviation allows the Louisiana Department of Transportation and Development to maintain the bridge

in the close-to-navigation position from 7 a.m. until 10 p.m. on Tuesday, June 1, 1999. This temporary deviation is issued to allow for the replacement of the emergency electrical-power supply. **DATES:** This deviation is effective from 7 a.m. until 10 p.m. on Tuesday, June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130-3396, telephone number 504-589-2965.

SUPPLEMENTARY INFORMATION: The SR 27 drawbridge across the Gulf Intracoastal Waterway, mile 243.8 west of Harvey Canal Locks, near Hackberry, Calcasieu Parish, Louisiana, has a vertical clearance of 50 feet above high water in the closet-to-navigation position. Navigation on the waterway consists of tugs with tows, fishing vessels, sailing vessels, and other recreational craft. The Louisiana Department of Transportation and Development requested a temporary deviation from the normal operation of the bridge in order to accommodate the replacement of the emergency electrical-power supply and is essential for the continued operation of the draw span.

This deviation allows the draw of the SR 27 bridge across the Gulf Intracoastal Waterway, mile 243.8 west of Harvey Canal Locks, near Hackberry to remain in the closed-to-navigation position from 7 a.m. until 10 p.m. on Tuesday, June 1, 1999. Presently, the draw opens on signal when more than 50 feet of vertical clearance is required, if at least four hours' notice is given to the Louisiana Department of Transportation and Development, District Maintenance Engineer, at Lake Charles, Louisiana.

Dated: May 7, 1999.

A.L. Gerfin, Jr.,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.

[FR Doc. 99-12273 Filed 5-13-99; 8:45 am]

BILLING CODE 4910-15-M

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

[CGD01-99-048]

RIN 2115-AA97

Safety Zone: Pepsi Gala Fireworks, New York Harbor, Upper Bay

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Pepsi Gala Fireworks Display located in Federal Anchorage 20C, New York Harbor, Upper Bay. This action is intended to restrict vessel traffic in a portion of Federal Anchorage 20C; it is necessary to provide for the safety of life on navigable waters during the event.

DATES: This rule is effective from 9:30 p.m. until 11 p.m. on Saturday, May 15, 1999. There is no rain date for this event.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354-4193.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

SUPPLEMENTARY INFORMATION:**Regulatory History**

Pursuant to 5 U.S.C. 553, no notice of proposed rulemaking (NPRM) was published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. Because of the date

the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM and publish the final rule 30 days before its effective date. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close the waterway and protect the maritime public from the hazards associated with this fireworks display.

Background and Purpose

On April 21, 1999, Fireworks by Grucci Inc. submitted an application to hold a fireworks program on the waters of Upper New York Bay in Federal Anchorage 20C. The fireworks program is being sponsored by Overland Entertainment Co. This regulation establishes a safety zone in 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), about 360 yards east of Liberty Island, New York. The safety zone is in effect from 9:30 p.m. until 11 p.m. on Saturday, May 15, 1999. There is no rain date for this event. The safety zone prevents vessels from transiting a portion of Federal Anchorage 20C 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 20C. Federal Anchorages 20A and 20B, to the north, and Federal Anchorages 20D and 20E, to the south, are also available for vessels' use. Marine traffic will still be able to transit through Anchorage Channel, Upper Bay, during the event as the safety zone extends only 125 yards into the 925-yard wide channel. Public notifications will be made before the event by local Notices to Mariners and marine-information broadcasts.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding rests on four facts: (1) the

minimal time that vessels will be restricted from the zone, (2) that vessels may safely anchor to the north and south of the zone, (3) that vessels may still transit through Anchorage Channel during the event, and (4) that we will make extensive advance notifications.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

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

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4, 109 Stat. 48) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain *Federal mandates*. A Federal mandate is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, \$100 million or more in any one year, the UMRA analysis is required. This final rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under figure 2-1,

paragraph 34(g), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this final rule and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This rule will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This rule will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

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

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 safety disproportionately affecting children.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub. L. 105-383.

2. Add temporary § 165.T01-048 to read as follows:

§ 165.T01-048 Safety Zone: Pepsi Gala Fireworks, New York Harbor, Upper Bay.

(a) *Location.* The following area is a safety zone: All waters of New York Harbor, Upper Bay, within a 360-yard

radius of the fireworks barge in approximate position 40°41'16.5"N 074°02'23"W (NAD 1983), about 360 yards east of Liberty Island, New York.

(b) *Effective period.* This section is effective from 9:30 p.m. until 11 p.m. on Saturday, May 15, 1999. There is no rain date for this event.

(c) *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.

R.E. Bennis,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 99-12272 Filed 5-13-99; 8:45 am]

BILLING CODE 4910-15-M

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AJ38

Reservists' Education: Increase in Educational Assistance Rates

AGENCIES: Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: By statute the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve must be adjusted each fiscal year in accordance with a statutory formula. The Veterans Benefits Act of 1998 provides a rate increase of approximately 20% that supersedes the otherwise applicable statutory annual adjustment for Fiscal Year 1999 (October 1, 1998, through September 30, 1999). The regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Selected Reserve are changed to show the rates indicated in the Act for Fiscal Year 1999. By statute, regular annual adjustments to these rates will resume commencing with Fiscal Year 2000.

DATES: Effective Date: This final rule is effective May 14, 1999.

Applicability Date: The changes in rates are applicable October 1, 1998, to conform with statutory requirements. For more information concerning the dates of application, see the

SUPPLEMENTARY INFORMATION SECTION.

FOR FURTHER INFORMATION CONTACT:

William G. Susling, Jr., Education Adviser, Education Service, Veterans Benefits Administration, (202) 273-7187.

SUPPLEMENTARY INFORMATION: As provided by the Veterans Benefits Act of 1998 (Pub. L. 105-178, Title VIII, Subtitle B), the rates of basic educational assistance under the Montgomery GI Bill—Selected Reserve payable to students pursuing a program of education full time must be increased by approximately 20% effective October 1, 1998. This final rule changes the regulations to reflect the statutory changes made by section 8203(b) of Pub. L. 105-178.

10 U.S.C. 16131(b) requires that the full-time, three-quarter-time, and half-time rates for institutional training be increased as noted above. These increased rates result in proportionate increases in the benefits payable for other types of training whose rates are based on the institutional training rates. For example, monthly rates payable to reservists in apprenticeship or other on-job training are set by statute at a given percentage of the full-time institutional rate.

10 U.S.C. 16131(b) requires that the Department of Veterans Affairs (VA) pay less-than-half-time students at appropriately reduced rates. Since payment for less-than-half-time training became available under the Montgomery GI Bill—Selected Reserve in Fiscal Year 1990, VA has paid less-than-half-time students at 25% of the full-time institutional rate for pursuit of a program of education. This final rule sets forth changes in rates consistent with the authority and formula described in this paragraph.

Nonsubstantive changes also are made for the purpose of clarity.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied retroactively from October 1, 1998, as set out in the regulations, in accordance with the applicable statutory provisions discussed above.

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and

comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Secretary of Defense, the Commandant of the Coast Guard, and the Secretary of Veterans Affairs hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health programs, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 4, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

Approved: March 26, 1999.

Charles L. Cragin,

Acting Assistant Secretary of Defense for Reserve Affairs.

Approved: April 6, 1999.

F.L. Ames,

Rear Admiral, U.S. Coast Guard Assistant Commandant for Human Resources.

For the reasons set out above, 38 CFR part 21, subpart L is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

1. The authority citation for part 21, subpart L is revised to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, unless otherwise noted.

2. In § 21.7636, paragraphs (a)(1), (a)(2)(i), and (a)(3) are revised to read as follows: