

Robenidone hydrochloride in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
	Lincomycin 2	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by <i>E. mivati</i> , <i>E. brunetti</i> , <i>E. tenella</i> , <i>E. acervulina</i> , <i>E. maxima</i> , and <i>E. necatrix</i> . For increase in rate of weight gain and improved feed efficiency.	Feed continuously as the sole ration. Do not feed to laying hens. Withdraw 5 days before slaughter.	000009
	Oxytetracycline 400	For broiler chickens: As an aid in the prevention of coccidiosis caused by <i>E. mivati</i> , <i>E. brunetti</i> , <i>E. tenella</i> , <i>E. acervulina</i> , <i>E. maxima</i> , and <i>E. necatrix</i> . For control of CRD and air sac infection caused by <i>Mycoplasma gallisepticum</i> and <i>E. coli</i> susceptible to oxytetracycline.	Feed continuously for 7 to 14 days. Do not feed to chickens producing eggs for human consumption. Withdraw 5 days before slaughter.	000069
	Roxarsone 22.5 to 45.4 (0.005 percent)	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by <i>E. mivati</i> , <i>E. brunetti</i> , <i>E. tenella</i> , <i>E. acervulina</i> , <i>E. maxima</i> , and <i>E. necatrix</i> . For increased rate of weight gain.	Feed continuously as the sole ration. Use as sole source of organic arsenic. Do not feed to layers. Withdraw 5 days prior to slaughter.	046573

Dated: July 25, 2000.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 00-21412 Filed 8-21-00; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-00-204]

RIN 2115-AA97

#### **Safety Zone: Fireworks Display, Hudson River, Pier 84, NY**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for a fireworks display located on the Hudson River. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Hudson River. **DATES:** This rule is effective from 8:30 p.m. on August 27, 2000 to 10 p.m. on August 28, 2000.

**ADDRESSES:** Material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-00-204) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### **FOR FURTHER INFORMATION CONTACT:**

Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Good cause exists for not publishing an NPRM due to the date the Application for Approval of Marine Event was received; there was insufficient time to draft and publish an NPRM. Further, it is a local event with minimal impact on the waterway; vessels may still transit through the western 385 yards of the 900-yard wide Hudson River during the event. The zone is only in effect for 1½ hours and vessels can be given permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Any delay encountered in this regulation's effective date would be unnecessary and 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.

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**. This is due to the following

reasons: it is a local event with minimal impact on the waterway, vessels may still transit through the western 385 yards of the 900-yard wide Hudson River during the event, the zone is only in effect for 1½ hours and vessels can be given permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

##### **Background and Purpose**

The Coast Guard has received an application to hold a fireworks program on the waters of the Hudson River. This rule establishes a safety zone in all waters of the Hudson River within a 240-yard radius of the fireworks barge in approximate position 40°45'56.2"N 074°00'21.6"W (NAD 1983), about 300 yards west of Pier 84, Manhattan. The safety zone is in effect from 8:30 p.m. (e.s.t.) until 10 p.m. (e.s.t.) on Sunday, August 27, 2000. If the event is cancelled due to inclement weather, then this zone is effective from 8:30 p.m. (e.s.t.) until 10 p.m. (e.s.t.) on Monday, August 28, 2000. 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 western 385 yards of the 900-yard wide Hudson River during this

event. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners.

### 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 zone, that vessels may still transit through the western 385 yards of the 900-yard wide Hudson River during the event, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone, and advance notifications which will be made.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 8" mortars fired from a barge combined with the Coast Guard's knowledge of tide and current conditions in the area.

### 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 will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Hudson River during the times this zone is activated.

This safety zone will not have a significant economic impact on a

substantial number of small entities for the following reasons. It is a local event with minimal impact on the waterway, vessels may still transit through the western 385 yards of the 900-yard wide Hudson River during the event, the zone is only in effect for 1½ hours and vessels can be given permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Before the effective period, we will publish this event in the Local Notice to Mariners, which is widely available to users of the river.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities were notified of this marine event by its publication in the First Coast Guard District Local Notice to Mariners #32 dated August 8, 2000.

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).

### 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.

### Unfunded Mandates

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.

### Taking of Private Property

This rule will 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 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 rule under Executive Order 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 paragraph 34(g) as it establishes a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting 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—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 temporary § 165.T01–204 to read as follows:

### § 165.T01–204 Safety Zone: Fireworks Display, Hudson River, Pier 84, NY.

(a) *Location.* The following area is a safety zone: All waters of the Hudson

River within a 240-yard radius of the fireworks barge in approximate position 40°45'56.2"N 074°00'21.6"W (NAD 1983), about 300 yards west of Pier 84, Manhattan.

(b) *Effective period.* This section is effective from 8:30 p.m. (e.s.t.) until 10 p.m. (e.s.t.) on August 27, 2000. If the event is cancelled due to inclement weather, then this section is effective from 8:30 p.m. (e.s.t.) until 10 p.m. (e.s.t.) on August 28, 2000.

(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.

Dated: August 11, 2000.

**R.E. Bennis,**

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 385

[Docket No. FMCSA-99-5467 (Formerly Docket No. FHWA-99-5467)]

RIN 2126-AA42 (Formerly RIN 2125-AE56)

#### Safety Fitness Procedures

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FMCSA is implementing section 4009 of the Transportation Equity Act for the 21st Century (TEA-21) by amending the safety fitness procedures of the Federal Motor Carrier Safety Regulations. This action prohibits all motor carriers found to be unfit from operating commercial motor vehicles (CMVs) in interstate commerce. The FMCSA will treat an unsatisfactory safety rating as a determination of unfitness.

**EFFECTIVE DATE:** This rule is effective on November 20, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah M. Freund, Vehicle and Roadside Operations Division, Office of

Policy and Program Development, FMCSA, or Mr. William C. Hill, Regulatory Development Division, Office of Policy and Program Development, FMCSA, (202) 366-4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at <http://www.nara.gov/fedreg> and the Government Printing Office's database at <http://www.access.gpo.gov/nara>.

##### Creation of New Agency

On December 9, 1999, the President signed the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159, 113 Stat. 1748). The new statute established the Federal Motor Carrier Safety Administration in the Department of Transportation. On January 4, 2000, the Secretary rescinded the authority previously delegated to the Office of Motor Carrier Safety (OMCS) (65 FR 220). This authority is now delegated to the FMCSA.

The motor carrier functions of the OMCS' Resource Centers and Division (i.e., State) Offices have been transferred to FMCSA Service Centers and FMCSA Division Offices, respectively. Rulemaking, enforcement, and other activities of the Office of Motor Carrier Safety while part of the FHWA, and while operating independently of the FMCSA, will be continued by the FMCSA. The redelegation will cause no changes in the motor carrier functions and operations previously handled by the FHWA or OMCS. For the time being, all phone numbers and addresses are unchanged.

##### Background

Section 4009 of TEA-21 (Public Law 105-178, 112 Stat. 107, at 405, June 9, 1998) amends 49 U.S.C. 31144 which

requires the Secretary of Transportation to maintain, by regulation, a procedure for determining the safety fitness of an owner or operator of commercial motor vehicles (CMVs). Section 31144 was originally enacted by section 215 of the Motor Carrier Safety Act (MCSA) of 1984 (Public Law 98-554, 98 Stat. 2832). The FMCSA regulations at 49 CFR parts 385 and 386 already include most of the requirements of section 4009.

Section 4009 transferred the prohibitions in 49 U.S.C. 5113 to section 31144. Section 5113 was enacted by section 15(b) of the MCSA of 1990 (Public Law 101-500, 104 Stat. 1213, 1218, November 3, 1990) and prohibited motor carriers rated "unsatisfactory" from using CMVs to transport, in interstate commerce, starting on the 46th day after the rating was issued, more than 15 passengers (including the driver) or hazardous materials (HM) in quantities requiring placarding. It also prohibited Federal agencies from using "unsatisfactory" rated motor carriers to transport more than 15 passengers and placardable quantities of HM. The regulation implementing section 5113 has been in effect since 1991 (49 CFR 385.13).

Section 4009 added a prohibition applicable to all owners and operators of CMVs not previously subject to 49 U.S.C. 5113—that is, those not transporting HM in quantities requiring placarding or passengers—from using those vehicles in interstate commerce starting on the 61st day after being found "unfit." It also prohibits Federal agencies from using those owners and operators to provide interstate transportation of non-HM freight.

Because 49 U.S.C. 31144(b), as amended by section 4009, provides that "[t]he Secretary *shall maintain, by regulation*, a procedure for determining the safety fitness of an owner or operator" [emphasis added], the FMCSA concludes that Congress authorized the continued use of the safety fitness rating regulation in effect on June 9, 1998, the date of enactment of TEA-21, until a rule to implement section 4009 is adopted and made effective.

The similarity between the current 49 U.S.C. 31144 and the previous 49 U.S.C. 31144 also convinces the FMCSA that Congress intended section 4009 to authorize the application of the principles embodied in section 15(b) of the MCSA of 1990 to the entire range of motor carriers that operate CMVs in interstate commerce. The only difference mandated by section 4009 is that carriers of general freight would have 60 days after the agency makes a determination of "unfitness," while