

§§ 117.435 and 117.436 [Redesignated]

2. § 117.435 is redesignated as § 117.434; § 117.436 is redesignated as § 117.435; and a new § 117.436 is added to read as follows:

§ 117.436 Chef Menteur Pass.

The draw of the U.S. Highway 90 bridge, mile 2.8, at Lake Catherine, shall open on signal; except that, from 5:30 a.m. to 7:30 a.m., Monday through Friday except Federal holidays, the draw need not open for the passage of vessels. The draw shall open at any time for a vessel in distress.

Dated: February 2, 1999.

Paul J. Pluta,

RADM, USCG Commander, 8th CG District.

[FR Doc. 99-4432 Filed 2-22-99; 8:45 am]

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

[CGD01-99-004]

RIN 2115-AA97

Safety Zone: Scharfman Batmitzvah Fireworks, East River, Newtown Creek, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Scharfman Batmitzvah Fireworks program located on the East River, Newtown Creek, New York. 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 on a portion of the East River.

DATES: This rule is effective from 10:15 p.m. until 11:45 p.m., on Saturday, April 10, 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, at (718) 354-4193.

SUPPLEMENTARY INFORMATION:**Regulatory History**

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not

published for this regulation. Good cause exists for not publishing an NPRM in the **Federal Register**. Due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this fireworks display.

Background and Purpose

On January 18, 1999, Bay Fireworks submitted an application to hold a fireworks program on the waters of the East River. The fireworks program is being sponsored by Shiela Scharfman. This regulation establishes a safety zone in those waters of the East River within a 250-yard radius of the fireworks barge located in approximate position 40°44'24"N 073°57'57"W (NAD 1983), approximately 300 yards from shore near Newton Creek, New York. The safety zone is in effect from 10:15 p.m. until 11:45 p.m. on Saturday, April 10, 1999. There is no rain date for this event. The safety zone prevents vessels from transiting a portion of the East 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 350 yards of the 900-yard-wide East River during the event. The Captain of the Port does not anticipate any negative impact on commercial and recreational traffic due to this event. Public notifications will be made prior to the event via local notice 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 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 area, that vessels may safely transit to the west of the zone, and extensive advance notifications which will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this 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 this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of \$100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that, from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. No state, local, or tribal government entities will be affected by this rule, so this rule will not result in annual or aggregate costs of \$100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

Environment

The Coast Guard has 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 written 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—[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.

2. Add temporary § 165.T01–004 to read as follows:

§ 165.T01–004 Safety Zone: Scharfman Batmitzvah Fireworks, East River, Newtown Creek, New York

(a) *Location.* The following area is a safety zone: those waters of the East River within a 250-yard radius of the fireworks barge in approximate position 40°44'24"N 073°57'57"W (NAD 1983), approximately 300 yards from shore near Newtown Creek, New York.

(b) *Effective period.* This section is effective from 10:15 p.m. until 11:45 p.m. on Saturday, April 10, 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. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: February 8, 1999.

R.E. Bennis,

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

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE036–1018a; FRL–6303–4]

Approval and Promulgation of Air Quality Implementation Plans; State of Delaware—Transportation Conformity Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Delaware State Implementation Plan (SIP). The revision consists of the addition of Delaware's transportation conformity regulation, for the purpose of assuring conformity of Delaware transportation plans, programs and projects to related requirements in the SIP. EPA is approving the transportation conformity regulation as a SIP revision in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on April 26, 1999 without further notice, unless EPA receives adverse written comment by March 25, 1999. If EPA receives such comments, it 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: Written comments should be mailed to Robert Kramer, Chief; Energy Radiation and Indoor Environment Branch, Mailcode 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Larry Budney, (215) 814–2184, or by e-mail at budney.larry@epamail.epa.gov. While clarifying questions and requests for additional information may be transmitted via e-mail, comments on this rulemaking must be submitted in writing in accordance with the procedures provided earlier in this document.

SUPPLEMENTARY INFORMATION:

I. Background

On April 23, 1998, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of Delaware's transportation conformity regulation, Regulation No. 32—Transportation Conformity, to meet the requirements of 40 CFR Part 51, Subpart T, "Conformity to State or Federal Implementation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws". Part 51, subpart T requires states to submit to EPA a SIP revision that contains criteria and procedures for state Departments of Transportation (DOTs), Metropolitan Planning Organizations (MPOs) and related state and local agencies to assess the conformity of transportation plans, programs and projects, consistent with part 51, subpart T and part 93, subpart A. This action to approve the Delaware's transportation conformity regulation as a SIP revision is being taken under Section 110 of the Clean Air Act (CAA).

II. Summary of SIP Revision

Delaware Regulation 32—Transportation Conformity establishes policy, criteria and procedures to follow when evaluating the conformity of transportation plans, programs and projects to all applicable SIPs developed pursuant to section 110 and part D of the CAA. The regulation includes the provisions of 40 CFR 93.100–128 and meets the requirements of 40 CFR 51.390. Regulation 32 was developed through consultation between Delaware's DNREC, DOT, MPOs, the Federal Highway Administration and the U.S. Environmental Protection Agency.

The geographic coverage of Regulation 32 includes Delaware's nonattainment and maintenance areas. Under the regulation, Delaware's transportation plans, programs and projects must conform to the purpose of the SIP, and must not:

- cause or contribute to any new violation of a National Ambient Air Quality Standard (NAAQS) in any area;
- interfere with SIP provisions for maintenance of any such standard;
- increase the frequency or severity of any existing violation of such a standard in any area; or
- delay timely attainment of any such standard in any area.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial