

channel traffic lights will then turn from flashing red to flashing green.

(13) From October 16 through May 14, the draw shall open on signal if at least 24 hours notice is given by telephone at (856) 231-7088 or (856) 662-8201.

Operational information will be provided 24 hours a day by telephone at (856) 231-7088 or (856) 662-8201.

(b) The Reading Railroad Bridge, mile 0.3, at Essington, will be left in the full open position at all times.

Dated: January 29, 2002.

**Thad W. Allen,**

*Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 02-3249 Filed 2-8-02; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 151

[USCG-2000-7442]

RIN 2115-AD23

#### Permits for the Transportation of Municipal and Commercial Waste

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is finalizing regulations previously published as an interim rule (IR). These regulations have been codified at 33 CFR part 151. The IR was published to implement the permitting and numbering requirements of the Shore Protection Act, but was never published as a final rule.

**DATES:** This final rule is effective on March 13, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2000-7442 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Michael Jendrossek, Office of Vessel and Facilities Operating Standards, Coast Guard, telephone 202-267-0836. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

## SUPPLEMENTARY INFORMATION:

### Background and Purpose

On May 24, 1989, the Coast Guard published in the **Federal Register** (54 FR 22546) an interim rule (IR) with request for comments (docket number CGD 89-014) implementing the permitting and numbering requirements of the Shore Protection Act (33 U.S.C. 2601 *et seq.*). In response, the Coast Guard received six comments. After it was determined that the procedures outlined in the IR were operating successfully, the Coast Guard published a Notice of Withdrawal in the **Federal Register** (60 FR 64001) on December 13, 1995, to discontinue the rulemaking. The intent was to close the rulemaking project. However, due to an oversight, the IR was never finalized.

The IR has been in place for the past 11 years, and the Coast Guard believes these procedures have been operating in a satisfactory manner. Therefore, the Coast Guard is now finalizing the IR. As the first step in this process, we reopened the comment period for the IR by publishing a notice of intent with request for comments in the **Federal Register** (66 FR 22137) on May 3, 2001. We received three comments regarding our intent to finalize this rulemaking.

### Discussion of Comments

We received one comment that suggested using an Automatic Identification System (AIS) on vessels permitted to carry municipal waste. We are unable to respond to this comment as it is outside the scope of this rulemaking. However, the Coast Guard will be considering AIS use generally in a future rulemaking.

The second comment was from the Commonwealth of Virginia. The comment suggest the Coast Guard take further steps to ensure the protection of human health and the environment. They suggest requiring information from the applicant on financial capability for clean-up and natural resource damage, information on past environmental violations or criminal convictions and a waste load tracking system. The Commonwealth also urges the Coast Guard to recognize legitimate interests of state regulation.

This rulemaking is still a two-part regulation, and this final rule only concerns the first portion. This rule has been interim for over ten years and should be finalized before we progress with the second portion of this rulemaking. The second part will address such issues as permanent permits versus conditional permits, as well as suspension and revocation provisions. We will provide the public

with additional opportunities to comment on the second portion of the rulemaking, and we will keep the comments listed above in mind as we prepare that second portion. That drafting process will include consultation with States, if necessary.

The third comment was from the Environmental Protection Agency (EPA) requesting that the Coast Guard delay finalizing this rule. As we have already stated, this is merely an administrative finalization of the interim rule that has been operating for over ten years. The Coast Guard is committed to working with EPA as they finalize their regulations under the Shore Protection Act. We are also committed to working with EPA to establish a formal, non-conditional permitting process, as well as suspension and revocation procedures for the permanent permits. In the spirit of that cooperation, we shared a draft of this final rule with EPA.

### Regulatory Evaluation

This 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 (OMB) 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).

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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.

These regulations contain only minimal reporting requirements. Respondents are required to complete an application containing only the minimum information necessary for the Coast Guard to fulfill its obligations under the SPA. They are also required to display a number on the vessel. The cost of complying with these requirements will be minimal. These costs are proportionally lower for small entities than for larger ones because a small entity will have fewer vessels and therefore will have fewer applications to complete and numbers to display. Since these costs are so low, the cost to any

individual small entity will be negligible. During the two comment periods for this rulemaking, the Coast Guard received no comments regarding adverse impacts economic or otherwise on small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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.

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). The collection of information requirements in the IR were previously approved by OMB. OMB Control Number 2115-0579 is assigned the collection.

#### 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 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 rule will not result in such an expenditure, we do discuss the

effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This 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 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 create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(a), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. The permit and numbering system, required

in the rule, are parts of a regulatory program to minimize the amount of municipal or commercial waste entering the coastal waters of the United States. The regulations are administrative in nature and do not prescribe any operational requirements that will have an impact on the environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

For the reasons discussed in the preamble, the interim rule amending 33 CFR part 151 which was published at 54 FR 22546 on May 24, 1989, and amended at 54 FR 24078, June 5, 1989; 61 FR 33665, June 28, 1996; 62 FR 33363, June 19, 1997; and 66 FR 33637, June 25, 2001, is adopted as a final rule.

Dated: December 14, 2001.

**Paul J. Pluta,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 02-3250 Filed 2-8-02; 8:45 am]

BILLING CODE 4910-15-U

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1, 2, 90 and 95

[ET Docket No. 00-221; ET Docket No. 99-255; PR Docket No. 92-235; WT Docket 97-153; FCC 01-382]

### Reallocation of 27 MHz of Spectrum

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document reallocates spectrum transferred from Federal Government use for non-Government services pursuant to the Omnibus Budget Reconciliation Act of 1993 and the Balanced Budget Act of 1997. Our actions here fulfill our statutory obligation to reallocate this transfer spectrum to non-Government users. We believe that this will lead to the development of new technologies and services and provide spectrum alternatives for users currently operating on heavily encumbered spectrum where operations are constrained due to congestion.

**DATES:** Effective April 12, 2002.

After January 1, 2002, new assignments will no longer be permitted