

at every blast site. Control Vessels crews must be able to warn of the blast site danger and communicate on VHF Channel 16.

(5) The Captain of the Port can be contacted on VHF Marine Band Radio, channels 13 and 16, or at telephone number (910) 772-2200.

(6) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: October 30, 2000.

**W.C. Bennett,**

*Captain, USCG, Captain of the Port,  
Wilmington, NC.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-00-253]

RIN 2115-AA97

#### **Safety Zone; Potential Explosive Atmosphere, Vessel Highland Faith, Port of New York/New Jersey.**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary moving safety zone for a potential explosive atmosphere on the vessel HIGHLAND FAITH, in the Port of New York/New Jersey. This action is necessary to protect investigating personnel, vessel repair personnel, the vessel HIGHLAND FAITH, and vessels in the vicinity of the vessel HIGHLAND FAITH, and the marine environment. This action is intended to restrict vessel traffic within a 2000-foot radius of the vessel HIGHLAND FAITH.

**DATES:** This rule is effective from 10:30 a.m. (e.s.t.) on December 12, 2000, until 7 a.m. (e.s.t.) on January 1, 2001.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-00-253) 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 fact that the safety zone is required due to an unforeseen potential explosive atmosphere and required vessel safety inspections and needed repairs. 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 inspection personnel, the vessel HIGHLAND FAITH and vessels in the vicinity of the HIGHLAND FAITH, and the marine environment.

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 an unforeseen explosive atmosphere, and is needed to protect the inspection personnel, the vessel HIGHLAND FAITH and vessels in the vicinity of the HIGHLAND FAITH, and the marine environment.

##### Background and Purpose

There is an ongoing potential explosive atmosphere in the Port of New York/New Jersey on the vessel HIGHLAND FAITH that began on December 5, 2000. The Coast Guard is establishing a temporary moving safety zone to provide safety to personnel engaged in the vessel safety inspection and vessel repairs, and to vessels in the area. The safety zone is in effect from 10:30 a.m. (e.s.t.) on December 12, 2000, until 7 a.m. (e.s.t.) on January 1, 2001. The effective times of this safety zone may be extended or shortened depending on the time required to conduct the safety inspections and vessel repairs. The safety zone prevents vessels from transiting within a 2000-foot radius of the vessel HIGHLAND FAITH in the Port of New York/New Jersey. The size and duration of this zone may be expanded or contracted as required for oil spill recovery activities, safety inspections, and vessel repairs. Public notifications will be made by facsimile, broadcast notice to mariners, and to VTS users as required.

##### 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, and the unforeseen nature of the potential explosive atmosphere.

The size of this safety zone was determined using the predicted explosive radius of the vessel.

##### 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 Port of New York/New Jersey 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 due to an unforeseen incident creating a potential explosive atmosphere, and the safety zone only closes the Port of New York/New Jersey within a 2000-foot radius of the vessel HIGHLAND FAITH while it is in the Port of New York/New Jersey. The size and duration of the zone may be expanded or contracted due to the results of the vessel safety inspection.

##### 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.

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 as the zone will only be in effect for the time required to complete the vessel safety inspections and repairs on the vessel HIGHLAND FAITH while it is in the Port of New York/New Jersey.

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.T01-253 to read as follows:

#### § 165.T01-253 Safety Zone; Potential Explosive Atmosphere, Vessel Highland Faith, Port of New York/New Jersey.

(a) *Location.* The following area is a safety zone: All waters of the Port of New York/New Jersey within a 2000-foot radius of the vessel HIGHLAND FAITH.

(b) *Effective period.* This section is effective from 10:30 a.m. (e.s.t.) on December 12, 2000, until 7 a.m. (e.s.t.) on January 1, 2001. The size and duration of this safety zone may be expanded or contracted due to the results of the vessel safety inspection.

(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: December 12, 2000.

**R.E. Bennis,**

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

[FR Doc. 00-32827 Filed 12-22-00; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 51

[FRL-6922-5]

#### Final Rule Making Findings of Failure to Submit Required State Implementation Plans for the NO<sub>x</sub> SIP Call

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is taking final action making findings, under the Clean Air Act (CAA), that Virginia, West Virginia, Alabama, Kentucky, North Carolina, South Carolina, Tennessee, Illinois, Indiana, Michigan, Ohio, and the District of Columbia failed to make complete State implementation plan (SIP) submittals required under the CAA. Under the CAA and EPA's nitrogen oxides (NO<sub>x</sub>) SIP call regulations, these States were required to submit SIP measures providing for reductions in the emissions of NO<sub>x</sub>, an ozone precursor. The EPA is continuing to work with these States to assist them in adopting State plans that meet the requirements of the NO<sub>x</sub> SIP Call and is hopeful that States will submit fully approvable plans. The EPA is taking this step today to continue the progress being made towards reducing NO<sub>x</sub> emissions in the eastern portion of the country because of the significant public health benefits of those reductions. This action triggers the 18-month time clock for mandatory application of sanctions in these States under the CAA. This action also triggers the requirement that EPA promulgate a Federal implementation plan (FIP) within 2 years of making the finding.

**EFFECTIVE DATE:** January 25, 2001.

**ADDRESSES:** A docket containing information relating to this rulemaking (Docket No. A-98-12) is available for public inspection at the Air and Radiation Docket and Information Center (6102), U.S. Environmental Protection Agency, 401 M Street, SW, room M-1500, Washington, DC 20460, telephone (202) 260-7548, between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A