

town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

#### IV. Procedural Determinations.

##### *Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

##### *Executive Order 13132—Federalism*

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with"

regulations issued by the Secretary pursuant to SMCRA.

##### *Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) Considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

##### *National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

##### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

##### *Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon data and assumptions for the counterpart Federal regulations.

##### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers,

individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

##### *Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

##### **List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 11, 2002.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

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BILLING CODE 4310-05-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 110

[CGD09-01-122]

RIN 2115-AA98

#### Special Anchorage Area; Henderson Harbor, NY

**AGENCY:** Coast Guard, DOT.

**ACTION:** Request for comments.

**SUMMARY:** The purpose of this document is to provide an additional opportunity to submit comments on the appropriate size of the Henderson Harbor Special Anchorage Area. The Coast Guard originally requested comments for 90 days starting on January 2, 2002. The Coast Guard has determined that additional comments will be helpful in determining the appropriate size of the Henderson Harbor Special Anchorage Area.

**DATES:** Comments must be received by July 22, 2002.

**ADDRESSES:** You may mail comments to Commander (map), Ninth Coast Guard District, 1240 E. Ninth Street, Cleveland, Ohio 44199-2060, or deliver them to room 2069 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

The Ninth Coast Guard District Marine Safety Office maintains the public docket for this rulemaking. Comments, and documents indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 2069, Ninth Coast Guard District, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander Michael Gardiner, Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District Marine Safety Office, at (216) 902-6056.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

The Coast Guard encourages interested persons to submit comments on the appropriate size of the special anchorage area. Persons submitting comments should include their names and addresses, identify this docket (CGD09-01-122) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

##### **Background Information**

On March 7, 2000, the Coast Guard published a final rule extending the southern most special anchorage area approximately 1000 feet while keeping the width approximately the same (65 FR 11892). The Harbormaster had requested that the anchorage area be extended to compensate for the loss of safe anchorage area due to lower water levels. Since vessels must request permission from the Henderson Harbor Town Harbormaster before anchoring or mooring in the special anchorage area, the additional area gave the Town Harbormaster increased deepwater areas in which to direct vessels for safe anchorage.

The Coast Guard has received letters and requests from members of the community, as well as town leaders, indicating that they would like to see the anchorage area revert back to the

previous smaller size. In response, on January 2, 2002, the Coast Guard published a request for comments (67 FR 17). Before taking any possible action, the Coast Guard would like to solicit additional comments from those affected by the Henderson Harbor Special Anchorage Area. The Coast Guard would like to get these comments within 45 days of the date of this publication so that they may be considered in conjunction with observing vessel traffic and the physical conditions within Henderson Harbor. After reviewing both the comments and the physical aspects of Henderson Harbor, the Coast Guard will determine if a change is appropriate.

Persons submitting comments should do as directed under *Request for Comments*, and reply to the following specific suggested anchorage areas. Form letters simply citing anecdotal evidence or stating support for or opposition to regulations, without providing substantive data or arguments do not supply support for regulations. The following two options are being considered:

##### *1. Continue to use current enlarged Anchorage Area.*

(a) *Area A.* The area in the southern portion of Henderson Harbor west of the Henderson Harbor Yacht Club bounded by a line beginning at 43°51'08.8" N, 76°12'08.9" W, thence to 43°51'09.0" N, 76°12'19.0" W, thence to 43°51'33.4" N, 76°12'19.0" W, thence to 43°51'33.4" N, 76°12'09.6" W, thence to the point of the beginning. These coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Area B.* The area in the southern portion of Henderson Harbor north of Graham Creek Entrance Light bounded by a line beginning at 43°51'21.8" N, 76°11'58.2" W, thence to 43°51'21.7" N, 76°12'05.5" W, thence to 43°51'33.4" N, 76°12'06.2" W, thence to 43°51'33.6" N, 76°12'00.8" W, thence to the point of the beginning. All nautical positions are based on North American Datum 1983 (NAD 83).

##### *2. Revert Anchorage Area A back to previous smaller size.*

(a) *Area A.* The area in the southern portion of Henderson Harbor west of the Henderson Harbor Yacht club bounded by a line beginning at 43°51'08.8" N, 76°12'08.9" W, thence to 43°51'09.0" N, 76°12'19.0" W, thence to 43°51'23.8" N, 76°12'19.0" W, thence to 43°51'23.8" N, 76°12'09.6" W, and then back to the beginning. These coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Area B.* The area in the southern portion of Henderson Harbor north of Graham Creek Entrance Light bounded

by a line beginning at 43°51'21.8" N, 76°11'58.2" W, thence to 43°51'21.7" N, 76°12'05.5" W, thence to 43°51'33.4" N, 76°12'06.2" W, thence to 43°51'33.6" N, 76°12'00.8" W, thence to the point of the beginning. All nautical positions are based on North American Datum 1983 (NAD 83).

**Kurt A. Carlson,**

*Captain, Coast Guard, Acting Commander, Ninth Coast Guard District.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[CA264-0348; FRL-7224-2]

### **Revisions to the California State Implementation Plan, South Coast Air Quality Management District**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the South Coast Air Quality Management District's portion of the California State Implementation Plan (SIP). This revision concerns the federal recognition of variances from certain rule requirements. We are proposing to approve the revision under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by July 5, 2002.

**ADDRESSES:** Mail comments to Ginger Vagenas, Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.  
South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

**FOR FURTHER INFORMATION CONTACT:** Ginger Vagenas, Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415)972-3964.

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.