

PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

1. The authority citation for part 18 continues to read as follows:

Authority: 30 U.S.C. 957 and 961.

2. In proposed § 18.54, revise paragraphs (f) introductory text and (f)(4) to read as follows:

§ 18.54 High-voltage continuous mining machines.

* * * * *

(f) *High-Voltage Trailing Cable(s)*. High-voltage trailing cable(s) must conform to the ampacity and outer dimensions in accordance with the Insulated Cable Engineers Association (ICEA) Standard ICEA S-75-381/ National Electrical Manufacturer's Association (NEMA) Standard NEMA WC 58-1997. The physical properties of the double-jacketed cable required in (f)(4)(i), must also be in accordance with ICEA S-75-381/NEMA WC 58-1997. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect a copy of these incorporated documents at any of the following locations: MSHA Coal Mine Safety and Health District Office, MSHA Approval and Certification Center, the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Arlington, VA; or at the National Archives and Records Administration (NARA). For more information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. You may also purchase a copy from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112. In addition, the cable must be constructed with:

(4) Either a double-jacketed or single-jacketed cable as follows:

(i) *Double jacket*. A double-jacketed cable consisting of reinforced outer and inner protective layers. The inner layer must be a distinctive color from the outer layer. The color black must not be used for either protective layer.

(ii) *Single jacket*. A single layer jacketed cable with a tear strength of more than 100 pounds per inch thickness, and a tensile strength of more than 4000 pounds per square inch. The cable jacket must not be black in color.

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PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

2. Revise proposed § 75.828 to read as follows:

§ 75.828 Trailing cable pulling.

The trailing cable must be de-energized prior to being pulled by any equipment other than the continuous mining machine. Cable manufacturers' recommended pulling procedures must be followed when pulling the trailing cable with such equipment.

3. Revise proposed § 75.833 to read as follows:

§ 75.833 Handling high-voltage trailing cables.

(a) *Cable Handling*. Miners must not handle energized trailing cables unless they are wearing high-voltage insulating gloves, which include the rubber gloves and leather outer protector gloves, or are using insulated cable handling tools that meet the requirements of paragraphs (c) or (d) of this section.

(b) *Availability*. Each mine operator must make high-voltage insulating gloves or insulated cable handling tools available to miners handling energized high-voltage trailing cables.

(c) *High-voltage insulating gloves*. High-voltage insulating gloves provided under paragraph (b) of this section must meet the following requirements:

(1) The rubber gloves must be designed and maintained to have a voltage rating of at least Class 1 (7,500 volts) and electrically tested every 30 days in accordance with publication ASTM F496-02a, "Standard Specification for In-Service Care of Insulating Gloves and Sleeves" (2002) which is incorporated by reference. You may inspect a copy at any MSHA Coal Mine Safety and Health District office, at the MSHA Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Arlington, VA, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. You may also purchase a copy from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959. The Director of the Federal Register has approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The rubber glove portion must be air-tested at the beginning of each shift to ensure its effectiveness.

(3) Both the leather protector and rubber insulating gloves must be visually examined before each use for signs of damage or defects.

(4) Damaged rubber gloves must be removed from the underground area of the mine or destroyed. Leather protectors must be maintained in good condition or replaced.

(d) *Insulated cable handling tools*. Insulated cable handling tools provided under paragraph (b) of this section must be:

(1) Rated and properly maintained to withstand at least 7,500 volts;

(2) Designed and manufactured for cable handling;

(3) Visually examined before each use for signs of damage or defects; and

(4) Removed from the underground area of the mine or destroyed if damaged or defective.

[FR Doc. E6-4359 Filed 3-27-06; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13-06-009]

RIN 1625-AA00

Safety Zones: Fireworks Displays in the Captain of the Port Portland Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend and revise 33 CFR 165.1315 to establish additional safety zones on the waters of the Suislaw, Willamette, Columbia, Coos, and Chehalis Rivers, located in the Area of Responsibility (AOR) of the Captain of the Port, Portland, Oregon, during annual fireworks displays. The Captain of the Port, Portland, Oregon, is taking this action to safeguard watercraft and their occupants from safety hazards associated with these displays. Entry into these safety zones is prohibited unless authorized by the Captain of the Port.

DATES: Comments and related material must reach the Coast Guard on or before April 27, 2006.

ADDRESSES: You will mail comments and related material to Petty Officer Keuter at Sector Portland 6767 N. Basin Ave, Portland OR 97217. Sector Portland maintains the public docket for this rulemaking. Comments and material received from the public, as

well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Sector Portland between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Petty Officer Charity Keuter, c/o Captain of the Port, Portland 6767 N. Basin Avenue, Portland, Oregon 97217, (503) 240-9301.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in the rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD13-06-009], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if your comments reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Sector Portland at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard is proposing to establish additional permanent safety zones to allow for safe annual fireworks displays. All events occur within the Captain of the Port, Portland, OR, Area of Responsibility (AOR). These events may result in a number of vessels congregating near fireworks launching barges and sites. The safety zones are needed to protect watercraft and their occupants from safety hazards associated with fireworks displays. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal and local agencies.

Discussion of Rule

This proposed rule, for safety concerns, will control vessels, personnel and individual movements in a

regulated area surrounding the fireworks event indicated in section 2 of this Notice of Proposed Rulemaking. Entry into these zones is prohibited unless authorized by the Captain of the Port, Portland or his designated representative. Captain of the Port, Portland, Oregon, will enforce these safety zones. The Captain of the Port may be assisted by other Federal and local agencies.

Regulatory Evaluation

This proposed 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 has not reviewed this rule under that Order. This rule is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This expectation is based on the fact that the regulated areas established by the proposed regulation will encompass small portions of the Columbia, Willamette, Coos, Chehalis and Siuslaw Rivers in the Portland AOR on different dates, all in the evening when vessel traffic is low.

Small Entities

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

This proposed rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit a portion of the Willamette, Columbia, Coos, Chehalis and Suislaw Rivers during the times mentioned in section 2(a)(8-14) at the conclusion of this proposed rule.

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. These safety zones will not have significant economic impact on a substantial number of small entities for

the following reasons. This rule will be in effect for only sixty minutes during the evenings when vessel traffic is low. Traffic will be allowed to pass through the zone with the permission of the Captain of the Port or his designated representatives on scene, if safe to do so.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please contact Petty Officer Keuter by phone at (503) 240-9301 or by e-mail at *Charity.S.Keuter@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

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 proposed 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 State, local, or tribal government, in the aggregate, or the private sector of \$100,000,000 or more in any one year. Though this proposed rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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 proposed 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 proposed 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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these

standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule establishes safety zones which have duration of no more than two hours each. Due to the temporary safety zones being less than one week in duration, an Environmental Checklist and Categorical Exclusion is not required.

Under figure 2–1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 165.1315 by adding paragraphs (a)(9) through (15) to read as follows:

§ 165.1315 Safety Zones: Fireworks displays in the Captain of the Port Portland Zone.

(a) * * *

(9) *Florence Chamber 4th of July Fireworks Display, Florence, OR:*

(i) *Location.* All water of the Siuslaw River enclosed by the following points: 43°58'05" N, 124°05'54" W following the shoreline to 43°58'20" N, 124°04'46" W then south to 43°58'07" N, 124°, 04'40" W following the shoreline to 43°57'48" N, 124°05'54" W then back to the point of origin.

(ii) *Enforcement Period.* This section is enforced annually on July fourth from 9 p.m. to 11 p.m. (PDT).

(10) *Oaks Park July 4th Celebration, Portland, OR:*

(i) *Location.* All water of the Willamette River enclosed by the following points: 45°28'26" N, 122°39'43" W following the shoreline to 45°28'10" N, 122°39'54" W then west to 45°28'41" N, 122°40'06" W following the shoreline to 45°28'31" N, 122°40'01" W then back to the point of origin.

(ii) *Enforcement Period.* This section is enforced annually on July fourth from 9 p.m. to 11 p.m. (PDT).

(11) *Rainier Days Fireworks Celebration, Rainier, OR:*

(i) *Location.* All water of the Columbia River enclosed by the following points: 46°06'04" N, 122°56'35" W following the shoreline to 46°05'53" N, 122°55'58" W then south to 46°05'24" N, 122°55'58" W following the shoreline to 46°05'38" N, 122°56'35" W then back to the point of origin.

(ii) *Enforcement Period.* This section is enforced annually on the second Saturday of July each year from 9 p.m. to 11 p.m. (PDT). Except that when the first Saturday falls on July 1, this section will be enforced on the third Saturday of July. In 2006, this zone will be enforced on July 15th.

(12) *Ilwaco July 4th Committee Fireworks, Ilwaco, WA:*

(i) *Location.* All water of the Columbia River extending out to a 700' radius from the launch site at 46°18'17" N, 124°01'55" W.

(ii) *Enforcement Period.* This section is enforced annually on the first Saturday of July from 9 p.m. to 11 p.m. (PDT). In 2006, this zone will be enforced on July 1st.

(13) *Milwaukie Centennial Fireworks Display, Milwaukie, OR:*

(i) *Location.* All water of the Willamette River enclosed by the following points: 45°26'41" N, 122°38'46" W following the shoreline to 45°26'17" N, 122°38'36" W then west to 45°26'17" N, 122°38'55" W following the shoreline to 45°26'36" N, 122°38'50" W then back to the point of origin.

(ii) *Enforcement Period.* This section is enforced annually on the third Saturday of July each year from 9 p.m. to 11 p.m. (PDT). Except that when the first Saturday falls on July 1, this section will be enforced on the fourth Saturday of July. In 2006, this zone will be enforced on July 22th.

(14) *Splash Aberdeen Waterfront Festival, Aberdeen, WA:*

(i) *Location.* All water of the Chehalis River extending out to 500 feet of the following points: 46°58'40" N, 123°47'45" W.

(ii) *Enforcement Period.* This section is enforced annually on July fourth from 9 p.m. to 11 p.m. (PDT).

(15) *City of Coos Bay July 4th Celebration, Coos Bay, OR:*

(i) *Location.* All water of the Coos River extending out to 1200 feet of the following points: 43°22'12" N, 124°12'39" W.

(ii) *Enforcement Period.* This section is enforced annually on July fourth from 9 p.m. to 11 p.m. (PDT).

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Dated: March 20, 2006.

Patrick G. Gerrity,

Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.

[FR Doc. E6-4380 Filed 3-27-06; 8:45 am]

BILLING CODE 4910-15-P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2006-1]

Fees

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is issued to inform the public that the Copyright Office of the Library of Congress is considering adoption of new fees for special services and Licensing Division services, and that the Office has submitted to Congress proposed new statutory fees for certain other services. The proposed fees would recover a significant part of the costs to the Office of registering claims and provide full cost recovery for many services provided by the Office which benefit only or primarily the user of that service.

DATES: Comments should be in writing and received on or before April 27, 2006.

ADDRESSES: If hand delivered by a private party, an original and ten copies

of any comment should be brought to Room LM-401 of the James Madison Memorial Building between 8:30 a.m. and 5 p.m. and the envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. If hand delivered by a commercial courier, an original and ten copies of any comment must be delivered to the Congressional Courier Acceptance Site located at Second and D Streets, NE., Washington, DC, between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Copyright Office General Counsel, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington DC. If sent by mail, an original and five copies of any comment should be addressed to: Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024-0400. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

FOR FURTHER INFORMATION CONTACT:

Tanya M. Sandros, Associate General Counsel, or Kent Dunlap, Principal Legal Advisor for the General Counsel, Telephone: (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION: Section 708 of the copyright law establishes two separate procedures for adjusting fees for Copyright Office services to account for increases in costs. Fees for services specifically enumerated in section 708(a)(1)-(9) ("statutory fees") are adjusted according to the procedures set forth in section 708(b). This procedure includes the completion of a cost study, and the forwarding of an economic report and proposed fee schedule to Congress, which takes effect unless Congress enacts a law within 120 days disapproving of the new fees. The second procedure concerns fees for services not specifically enumerated in section 708(a)(1)-(9), and for the purposes of this rulemaking, these fees are termed "discretionary fees." Section 708(a) authorizes the Register to set these fees at "the cost of providing the service." As with the statutory fees, the Copyright Office adjusts the discretionary fees only after conducting a cost study to determine the cost of providing the services.

This is the third schedule of fees to be proposed under the current fee setting procedure which was adopted when section 708 was amended in 1997 with the passage of the Technical

Amendments Act, Public Law 105-80, 111 Stat. 1529. The first schedule was adopted in 1999, see 63 FR 43426 (August 13, 1998) and 64 FR 29518 (June 1, 1999), and the second schedule was adopted three years later in 2002. To cover the rising costs of providing copyright services, most fees were increased in 2002. However, notable among fees that were not adjusted at that time was the basic registration filing fee, which was kept at the 1999 level. The Register provided a number of reasons for her determination that no increase in basic registration fees was warranted at the time. They included the substantial increase of 1999 which accounted for an acceptable level of cost recovery, the costs associated with increasing the fee, and the changes in processing anticipated from the Copyright Office's impending business process reengineering effort. 67 FR 38003 (May 31, 2002).

Because costs have continued to rise since the last fee adjustment in 2002, the Office undertook a third cost study to assess how well current fees allowed the Copyright Office to recover its costs of providing its services to the public. The result of that study is today's proposal to increase most fees to a level that allows the Office to recover a significant portion of its costs as contemplated by Congress.

I. Overview

The expenses of the Copyright Office have always been substantially funded through the charging of fees for the services provided, although programs relating to domestic and international copyright policy and public information have been generally paid for by appropriated funds. Yet, for the last fifty years, fees have not provided for full cost recovery. During this period, cost recovery through the charging of fees has ranged from 50% to 80% of the expenses of the Copyright Office. In fiscal year 2005, the Copyright Office collected \$23,788,227 in fees, sufficient to offset only 56.7% of the total expenditures of the Office, whereas in 2002, fees covered just over 66% of the Office's costs for providing its services.

In order to place the Copyright Office on a sounder financial footing, a cost study was undertaken last year by the Office which evaluated all the fees charged by the Copyright Office. Based upon its findings, the Office determined that most fees for services mandated by statute should be adjusted to reflect increased costs of providing the various services. These proposed new fees falling within the rate adjustment procedure of section 708(b) were submitted to Congress on March 1,