

■ 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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 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. Add § 165.T01–0685 to read as follows:

#### **§ 165.T01–0685 Safety Zones; Fireworks Within the Captain of the Port Sector Boston Zone.**

(a) *General.* Temporary safety zones are established for fireworks events described in paragraphs (a)(1) through (a)(5):

(1) Surfside Fireworks, Salisbury Beach, MA

(i) All waters of the Atlantic Ocean near Salisbury Beach, MA from surface to bottom, within a 200-yard radius of the fireworks barge located at 42°50'36" N, 070°48'24" W.

(ii) *Enforcement Date.* This rule is effective from 9:30 p.m. on July 24, 2010 to 11:59 p.m. on September 4, 2010. This rule will be enforced every Saturday evening from 9:30 p.m. through 10:30 p.m. during the effective period.

(2) Yankee Homecoming Fireworks, Newburyport, MA

(i) All waters of the Merrimack River, from surface to bottom, within a 400-yard radius of the fireworks launch site located at position 42°48'58" N, 070°52'41" W.

(ii) *Enforcement Date.* This rule will be enforced from 9 p.m. to 10 p.m. on July 31, 2010.

(3) Beverly Homecoming Fireworks, Beverly, MA

(i) All waters of Beverly Harbor from surface to bottom, within a 200-yard radius of the fireworks barge located at position 42°32'37" N, 070°52'09" W.

(ii) *Enforcement Date.* This rule will be enforced from 9:00 p.m. to 11:00 p.m. on August 8, 2010.

(4) Town of Revere Fireworks, Revere, MA

(i) All waters of Broad Sound, from surface to bottom, within a 300-yard radius of the fireworks launch site located at Revere Beach at position 42°24'30" N, 070°59'26" W.

(ii) *Enforcement Date.* This rule will be enforced from 9:00 p.m. to 11 p.m. on August 14, 2010.

(5) Gloucester Schooner Festival Fireworks, Gloucester, MA

(i) All waters of Gloucester Harbor, from surface to bottom, within a 500-yard radius of the launch site on the beach at location of 42° 36'18" N, 070°40'32" W.

(ii) *Enforcement Date.* This rule will be enforced from 7:00 p.m. to 11 p.m. on September 4, 2010.

(b) *Regulations.*

(1) In accordance with the general regulations in Section 165.23 of this part, entering into, and transiting through, mooring or anchoring within these regulated areas is prohibited unless authorized by the Captain of the Port Boston, or his designated on-scene representative.

(2) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port Boston or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16 or by telephone at (617) 223–5750.

(3) The “on-scene representative” of the Captain of the Port Boston is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Boston to act on his behalf. The on-scene representative of the Captain of the Port Boston will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the Captain of the Port or his on-scene representative.

Dated: August 2, 2010.

**John N. Healey,**

*Captain, U.S. Coast Guard, Captain of the Port Boston.*

[FR Doc. 2010–19977 Filed 8–12–10; 8:45 am]

**BILLING CODE 9110–04–P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 35**

**[FRL–9189–1]**

**RIN 2050–AG58**

### **Cooperative Agreements and Superfund State Contracts for Superfund Response Actions**

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulation by allowing interim progress reports to be due in 60 days, instead of the current 30-day requirement, following the close of the quarterly and semi-annual reporting periods. In addition, this amendment allows the recipient of a Superfund State Contract (SSC) to request that EPA apply any overpayment of cost share to another site. The revisions affect States, Indian Tribes, intertribal consortia, and political subdivisions. The revisions will improve the administration and effectiveness of Superfund Cooperative Agreements and Superfund State Contracts.

**DATES:** This rule is effective October 12, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–HQ–SFUND–2010–0085. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the CERCLA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the CERCLA docket is (202) 566–0276.

#### **FOR FURTHER INFORMATION CONTACT:**

Angelo Carasea, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation, (5204P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 603–8828; fax number: (703) 603–9112; e-mail address: [carasea.angelo@epa.gov](mailto:carasea.angelo@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

- I. Statutory Authority
- II. Applicability
- III. Background
- IV. Description of Key Changes
- V. Section-by-Section Analysis
- VI. Statutory and Executive Order Reviews

#### **I. Statutory Authority**

This rule is issued under section 104(a)–(j) of the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*) as amended (hereinafter CERCLA).

## II. Applicability

The final regulation requirements shall apply to all new Cooperative Agreements and Superfund State Contracts, funded under CERCLA, which EPA signs on or after the effective date of this regulation. EPA may agree to amend existing Cooperative Agreements or Superfund State Contracts to make the final regulation requirements applicable to work performed on and after the date EPA signs the amendment.

## III. Background

CERCLA launched the nation's first centralized and substantial commitment to clean up hazardous substance sites. CERCLA, or Superfund, provided federal authority and resources to respond directly to releases (or threatened releases) of hazardous substances, pollutants, or contaminants that could endanger human health or the environment. The law also authorized enforcement action and cost recovery from those responsible for a release of a hazardous substance.

CERCLA authorizes two types of Superfund response agreements for State, Tribal (including intertribal consortium) and political subdivision participation in CERCLA implementation: Cooperative Agreements and Superfund State Contracts. These agreements ensure State and Tribal involvement, consistent with section 121 of CERCLA, 42 U.S.C. 9621 (hereinafter section 121), and section 126 of CERCLA, 42 U.S.C. 9626 (hereinafter section 126), and are used to obtain State assurances required under section 104 of CERCLA, 42 U.S.C. 9604, (hereinafter section 104) before EPA begins a remedial action.

EPA uses Cooperative Agreements to transfer funds to a State, political subdivision, or Indian Tribe that assumes responsibility as the lead or support agency for Superfund responses. Core Program Cooperative Agreements are used to fund non-site-specific activities that support a State or Indian Tribe's involvement in CERCLA responses.

A Superfund State Contract is used to document a State's CERCLA section 104 assurances when either EPA or a political subdivision has the lead role in the implementation of a remedial action.

The role of States, Indian Tribes, and political subdivisions (also described as recipients) in Superfund has evolved substantially since 1990 when the

original 40 CFR part 35 subpart O regulation was promulgated. The recipients' cleanup programs have matured and become more sophisticated. In addition, EPA has actively sought to fulfill CERCLA's mandate in sections 121 and 126 to provide States and Indian Tribes a "substantial and meaningful involvement" in Superfund by providing Core Program funding for the development of State and Tribal infrastructure.

On May 2, 2007, EPA promulgated a final regulation, which amended 40 CFR part 35 subpart O, to reduce the burden on recipients to receive and administer Cooperative Agreements and Superfund State Contracts. This rule amends 40 CFR part 35 subpart O to further reduce the recipients' burden by allowing interim progress reports to be due in 60 days, instead of 30 days, following the close of the quarterly and semi-annual reporting periods. Also, this rule amends 40 CFR part 35 subpart O so that under a Superfund State Contract, a recipient may request the overpayment of cost share from one site be applied to meet the cost share requirement of another site.

## IV. Description of Key Changes

EPA made limited revisions to certain sections of the regulation. The following is a brief description of the key changes.

### A. Progress Reports

This rule revises 40 CFR part 35 subpart O by amending the current reporting requirements that require the interim progress report to be due within 30 days after the reporting period. In the revised regulation, interim progress reports are now due within 60 days after the reporting period. This change codifies a recommendation under EPA initiative, "Burden Reduction Initiative" (See <http://www.epa.gov/burdenreduction/index.htm> for information about EPA's Burden Reduction Initiative.)

### B. Financial Reports

This revision corrects a citation error to CFR 31.41(b)(3) for quarterly and semiannual financial reports requirement. The correct citation is CFR 31.41(b)(4), which requires quarterly and semiannual financial reports due 30 days after the reporting period.

### C. Overpayment

In the revised regulation, a State may also direct EPA to use the excess cash cost share funds (overmatch) at one site to meet the cost share obligations at another State site. This change was made to provide greater flexibility to a

State on how it wants to address the overmatch of cost share under a Superfund State Contract.

## V. Section-by-Section Analysis

### Section 35.6650 Progress Reports

Paragraph (a) is revised to read, "*Reporting frequency.* The recipient must submit progress reports as specified in the Cooperative Agreement. Progress reports will be required no more frequently than quarterly, and will be required at least annually. Notwithstanding 40 CFR 31.41(b)(1), the reports shall be due within 60 days after the reporting period. The final progress report shall be due 90 days after expiration or termination of the Cooperative Agreement." The reporting period for quarterly and semiannual progress reports was changed from 30 to 60 days.

### Section 35.6670 Financial Reports

Paragraph (b)(2)(i) is revised to read, "If a Financial Status Report is required annually, the report is due 90 days after the end of the Federal fiscal year or as specified in the Cooperative Agreement. If quarterly or semiannual Financial Status Reports are required, reports are due in accordance with 40 CFR 31.41(b)(4)." The reference citation to 40 CFR 31.41(b)(3) was changed to 40 CFR 31.41(b)(4), and the redundant statement, "due 30 days after the reporting period," was deleted. 40 CFR 31.41(b)(4) requires quarterly and semiannual reports to be due 30 days after the reporting period.

### Section 35.6805 Contents of an SSC

Paragraph (k) is revised to read, "*Reconciliation provision,* which states that the SSC remains in effect until the financial settlement of project costs and final reconciliation of response costs (including all change orders, claims, overmatch of cost share, reimbursements, etc.) ensures that both EPA and the State have satisfied the cost share requirement contained in section 104 of CERCLA, as amended. The recipient may direct EPA to return the overmatch or to use the excess cost share payment at one site to meet the cost share obligation at another site in accordance with § 35.6285(d). Reimbursements for any overpayment will be made to the payer identified in the SSC." The revised regulation permits the recipient also to request the overmatch be applied to the cost share requirements of another site. Under the current regulation, EPA must return the overpayment to the recipient. On May 2, 2007, EPA promulgated a final regulation, amending § 35.6285(d),

“Excess cash cost share contribution/overmatch,” which permitted a state to request the overmatch be applied to the cost share requirements of another site when using a remedial cooperative agreement. This change makes the overmatch requirements the same for an SSC as for a remedial cooperative agreement.

## VI. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Reviews

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a “significant regulatory action.” Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

### B. Paperwork Reduction Act

This action does not impose any new information collection burden, because it makes only minimal changes in the current 40 CFR part 35 subpart O requirements. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations in 40 CFR part 35 under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050–0179. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

### C. Regulatory Flexibility Act

Today’s final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This rule is not subject to notice and comment requirements under the APA or any other statute because this rule pertains to grants which the APA expressly exempts from notice and comment rulemaking requirements under 5 U.S.C. 553(a)(2). Moreover, CERCLA also does not require EPA to issue a notice of proposed rulemaking prior to issuing this rule.

### D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform

Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. UMRA excludes from the definition of “Federal intergovernmental mandate” duties that arise from participation in a voluntary Federal program. Therefore, this action is not subject to the requirements of sections 202 or 205 of UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. Participation by small governments in this program is voluntary and is funded by EPA.

### E. Executive Order 13132: Federalism

This final rule does not have federalism implications. This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various level of government, as specified in Executive Order 13132. This final rule makes minor changes to the regulation, under which the 40 CFR part 35 subpart O program has been operating since May 2007. Apart from the minor changes, this rule adds new provisions that increase State flexibility, so it does not have federalism implications as that phrase is defined for purposes of Executive Order 13132. Further, because this is a rule that primarily conditions the use of Federal assistance, it does not impose substantial direct compliance costs on States. Thus Executive Order 13132 does not apply to this final rule.

### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It does not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or the distribution of power between and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this action.

### G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required

under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

### H. Executive Order 13211 (Energy Effects)

This action is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

### I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health and environmental effects on minority or low-income populations because it does

not affect the level of protection provided to human health or the environment. This rule amends 40 CFR part 35 subpart O by allowing interim progress reports to be due in 60 days, instead of the current 30-day requirement. In addition, this amendment allows the recipient of a Superfund State Contract to request that EPA apply any overpayment of cost share to another site. The regulation 40 CFR part 35 subpart O codified: (1) Recipient requirements for administering Cooperative Agreements awarded pursuant to section 104(d)(1) of CERCLA; and (2) requirements for administering Superfund State Contracts for non-State-lead remedial responses undertaken pursuant to section 104 of CERCLA.

#### K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. While this action is not a "major rule" as defined by 5 U.S.C. 804(2), the final rule becomes effective 60 days after publication in the **Federal Register** on October 12, 2010.

#### List of Subjects in 40 CFR Part 35

Administrative practices and procedures, Environmental protection, Grant programs—environmental protection, Reporting and recordkeeping.

Dated: August 9, 2010.

**Lisa P. Jackson**,  
Administrator.

■ For the reasons set out in the preamble, 40 CFR part 35 is amended as follows:

#### PART 35—STATE AND LOCAL ASSISTANCE

■ 1. The authority citation for 40 CFR part 35, subpart O continues to read as follows:

**Authority:** 42 U.S.C. 9601 *et seq.*

#### Subpart O—Cooperative Agreements and Superfund State Contracts for Superfund Response Actions

■ 2. Amend § 35.6650 by revising paragraph (a) to read as follows:

##### § 35.6650 Progress reports.

(a) *Reporting frequency.* The recipient must submit progress reports as specified in the Cooperative Agreement. Progress reports will be required no more frequently than quarterly, and will be required at least annually. Notwithstanding 40 CFR 31.41(b)(1), the reports shall be due within 60 days after the reporting period. The final progress report shall be due 90 days after expiration or termination of the Cooperative Agreement.

\* \* \* \* \*

■ 3. Amend § 35.6670 by revising paragraph (b)(2)(i) to read as follows:

##### § 35.6670 Financial reports.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) If a Financial Status Report is required annually, the report is due 90 days after the end of the Federal fiscal year or as specified in the Cooperative Agreement. If quarterly or semiannual Financial Status Reports are required, reports are due in accordance with 40 CFR 31.41(b)(4);

\* \* \* \* \*

■ 4. Amend § 35.6805 by revising paragraph (k) to read as follows:

##### § 35.6805 Contents of an SSC.

\* \* \* \* \*

(k) *Reconciliation provision*, which states that the SSC remains in effect until the financial settlement of project costs and final reconciliation of response costs (including all change orders, claims, overmatch of cost share, reimbursements, etc.) ensures that both EPA and the State have satisfied the cost share requirement contained in section 104 of CERCLA, as amended. The recipient may direct EPA to return the overmatch or to use the excess cost share payment at one site to meet the cost share obligation at another site in accordance with § 35.6285(d). Reimbursements for any overmatch will be made to the recipient identified in the SSC.

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**BILLING CODE 6560-50-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket ID FEMA-2010-0003; Internal Agency Docket No. FEMA-8141]

#### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

**DATES: Effective Dates:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance