

possible. Vessels that can pass under the bridge without an opening may do so at all times.

This deviation to the operating regulations will allow the City of Boston to open the bridge after a 24 hour advance notice is provided by calling (617) 635-7555. From 8 p.m. to 7 a.m., daily, the draw need not open for the passage of vessels. This deviation from the normal operating regulations is authorized under 33 CFR 117.35.

Dated: November 17, 1998.

**R.M. Larrabee,**

*Rear Admiral, U.S. Coast Guard Commander,  
First Coast Guard District.*

[FR Doc. 98-33076 Filed 12-11-98; 8:45 am]

BILLING CODE 4910-15-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD1-98-171]

RIN 2115-AA97

#### **Safety Zone: Explosive Load, Bath Iron Works, Bath, ME**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone to close a portion of the Kennebec River to waterway traffic in a 400 foot radius around Bath Iron Works, Bath, ME, for an explosive load, from 6 a.m. November 25, 1998 through 12 p.m. December 23, 1998. This safety zone is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with the handling and transportation of explosives. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

**DATES:** This rule is effective from 6 a.m. November 25, 1998 until 12 p.m. December 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant J.D. Gafkjen, Chief of Response and Planning, Captain of the Port, Portland at (207) 780-3251.

#### **SUPPLEMENTARY INFORMATION:**

#### **Regulatory History**

As authorized by 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after Federal Register publication. Due to the complex planning and coordination involved, final details for the closure

were not provided to the Coast Guard until November 23, 1998, making it impossible to publish a NPRM or a final rule 30 days in advance. Publishing an NPRM and delaying its effective date would be contrary to public interest since this safety zone is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with the handling of explosives.

#### **Background and Purpose**

The Explosive Load will occur from 6 a.m. November 25, 1998 until 12 p.m. to December 23, 1998. The safety zone covers the waters of the Kennebec River, Bath, ME, in a 400-foot radius around Bath Iron Works, Bath, ME. This safety zone is required to protect the maritime community from the hazards associated with the handling of explosives. Entry into this zone will be prohibited unless authorized by the Captain of the Port.

#### **Regulatory Evaluation**

This temporary final 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. It has not been reviewed by the Office of Management and Budget 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This safety zone involves only a portion of the Kennebec River. Due to the limited duration of the safety zone, the fact that the safety zone will not restrict the entire channel of the Kennebec River, allowing traffic to continue without obstruction, and that advance maritime advisories will be made, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that this final rule will not have a significant economic impact on a substantial number of small entities.

#### **Collection of Information**

This rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

#### **Federalism**

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **Environment**

The Coast Guard has considered the environmental impact of this regulation and concluded that, under section 2.B.2.e. of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and an Environmental Analysis Checklist is available in the docket for inspection or copying.

#### **List of Subjects in 33 CFR Part 165**

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

#### **Regulation**

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

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 and 160.5; 49 CFR 1.46.

2. Add temporary section 165.T01-CGD1-171 to read as follows:

#### **§ 165.T01-CGD1-171 Explosive Load, Bath Iron Works, Bath, ME.**

(a) *Location.* The safety zone covers the waters of the Kennebec River, Bath, ME, in a 400 foot radius around Bath Iron Works, Bath, ME.

(b) *Effective date.* The explosive load will occur from 6 a.m. November 25, 1998 until 12 p.m. December 23, 1998. The safety zone covers the waters of the Kennebec River, Bath, ME.

(c) *Regulations.* (1) The general regulations contained in 33 C.F.R. 165.23 apply.

(2) All persons shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of the vessel shall proceed as directed.

(3) In accordance with the general regulations in section 165.23 of this part, entry or movement within this zone is prohibited unless authorized by the Captain of the Port, Portland, ME.

Dated: November 24, 1998.

**R.A. Nash,**

*Commander, U.S. Coast Guard, Captain of the Port, Portland, Maine.*

[FR Doc. 98-33080 Filed 12-11-98; 8:45 am]

BILLING CODE 4910-15-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Parts 400, and 402

[HCFA-6135-FC]

#### Medicare and Medicaid Program; Civil Money Penalties, Assessments, Exclusions, and Related Appeals Procedures

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Final rule with comment period.

**SUMMARY:** This rule establishes procedures for imposing civil money penalties, assessments, and exclusions for certain violations of the Medicare and Medicaid programs. The regulations also provide for hearings and appeals when those penalties, assessments, and exclusions are imposed. These procedures are based on the procedures that the Office of the Inspector General has promulgated for the civil money penalties, assessments, and exclusions. These regulations are designed to protect program beneficiaries from unfit health care practitioners and to otherwise improve antifraud provisions under the Medicare and Medicaid Acts.

**DATES:** These regulations are effective on January 13, 1999. Comments must be received by February 12, 1999.

**FOR FURTHER INFORMATION CONTACT:** Joel Cohen, (410) 786-3349

**ADDRESSES:** Mail written comments (1 original and 3 copies) to the following

address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA-6135-FC, PO Box 26676, Baltimore, MD 21207-0519.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5-09-26, 7500 Security Boulevard, Baltimore, MD 21244-1850

Comments may also be submitted electronically to the following e-mail address: HCFA6135FC@hcfa.gov. For e-mail comment procedures, see the beginning of **SUPPLEMENTARY INFORMATION**. For further information on ordering copies of the **Federal Register** containing this document and on electronic access, see the beginning of **SUPPLEMENTARY INFORMATION**.

Electronically submitted comments will be available for public inspection at the Independence Avenue address below.

#### **SUPPLEMENTARY INFORMATION:**

#### **E-Mail, Comments, Procedures, Availability of Copies, and Electronic Access**

E-mail comments must include the full name and address of the sender and must be submitted to the referenced address to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-0047-P and the specific section or sections of the proposed rule. Both electronic and written comments received by the time and date indicated above will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690-7890). Electronic and legible written comments will also be posted, along with this proposed rule, at the following web site: <http://aspe.os.dhhs.gov/admsimp/>.

**Copies:** To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. Specify the date of the issue requested and enclose a check or money order

payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512-1800 or by faxing to (202) 512-2250. The cost for each copy is \$8. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web, <http://www.access.gpo.gov/nara/>, by using local WAIS client software, or by telnet to [swais.access.gpo.gov](mailto:swais.access.gpo.gov), then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512-1661; type swais, then login as guest (no password required).

#### **I. Background**

In 1981, the Congress added section 1128A to the Social Security Act (the Act) (section 2105 of Pub.L. 97-35) to authorize the Secretary of Health and Human Services to impose civil money penalties and assessments on certain health care facilities, health care practitioners, and other suppliers under the Medicare and Medicaid programs. Civil money penalties and assessments provide an alternative enforcement tool for agencies to establish compliance with legal and program standards and are in addition to potential criminal proceedings.

Since 1981, the Congress has significantly increased both the number and the types of circumstances under which the Secretary may impose civil money penalties. Some of the civil money penalty authorities address fraud, misrepresentation, or falsification while others address noncompliance with programmatic or regulations requirements. The Secretary has delegated the authority for these provisions to either the Office of Inspector General (OIG) or HCFA (58 FR 52967, October 20, 1994). Under this delegation of authority, the OIG has the authority to impose civil money penalties and prosecute cases involving civil money penalties and assessments that were delegated to HCFA if HCFA and the OIG jointly determine it to be