

new provision at 14.15(m)(2) is added to provide as follows:

(2) The coal processing waste will not be placed in the backfill unless it has been demonstrated to the satisfaction of the Director that: (A) the coal processing waste to be placed based upon laboratory testing to be non-toxic and/or non-acid producing; or (B) an adequate handling plan including alkaline additives has been developed and the material after alkaline addition is non-toxic and/or non-acid producing.

### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comments on the proposed amendments submitted by the State of West Virginia to its permanent regulatory program. Specifically, OSM is seeking comments on the revisions to the State's regulations that were submitted on April 2, 1996 (Administrative Record No. WV-1024). Comments should address whether the proposed amendments satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the West Virginia program.

#### Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the OSM Charleston Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

#### Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the close of business on May 8, 1996. If no one requests an opportunity to testify at the public hearing by that date, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate remarks and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

#### Public Meeting

If only one person or group requests to testify at a hearing, a public meeting, rather than a public hearing, may be held, and the results of the meeting included in the Administrative Record.

Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM Charleston Field Office listed under **ADDRESSES** by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under **ADDRESSES**. A written summary of each public meeting will be made a part of the Administrative Record.

### IV. Procedural Determinations

#### Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 (Reduction of Regulatory Burden) for actions related to approval or conditional approval of State regulatory programs, actions and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary, and OMB regulatory review is not required.

#### Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed 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 the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C. 1253 and 1255) and 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.

#### National Environmental Policy Act

No environmental impact statement is required for this rule since 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 the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

#### Regulatory Flexibility Act

The Department of the Interior has determined 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. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

#### List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 12, 1996.

Allen D. Klein,

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 96-9937 Filed 4-22-96; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 110

[CGD07-96-017]

RIN 2115-AA98

#### Special Anchorage Areas; Ashley River, Charleston, SC

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish two new anchorage areas in the Ashley River, Charleston, South

Carolina to replace an existing anchorage. Due to pending construction of two 1000 ft piers at the George M. Lockwood Municipal Marina, in Charleston, the current anchorage will not be available for anchoring recreational vessels. The Municipal Marina has received a construction permit to build the piers from the U.S. Army Corps of Engineers. The new anchorages will be necessary to replace the one described in 33 CFR 110.72d. The proposed anchorages are across the Ashley River from the current anchorage and though not designated as Federal anchorages, they are already widely used by recreational vessels as overflow from the current anchorage.

**DATES:** Comments must be received on or before June 24, 1996.

**ADDRESSES:** Comments should be mailed to the Captain of the Port Charleston, Marine Safety Office Charleston, South Carolina 29401-1899. The comments will be available for inspection and copying at 196 Tradd Street, Charleston, SC between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may also be hand delivered to this address.

**FOR FURTHER INFORMATION CONTACT:** CW04 R.M. Webber, Project Officer, Tel: (803) 724-7690.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD07-96-017) and the specific section of this proposal to which their comments apply, and give reasons for each comment. The regulations may be changed in the light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if written requests for a hearing are received, and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

#### Discussion of Proposed Regulations

The City Marina Company and the City of Charleston have been granted, by the U.S. Army Corps of Engineers, a permit to build two 1000 foot piers on the south side of the Municipal Marina. These piers will cross an existing anchorage eliminating most of the anchorages within that area that have over six feet of water at mean low water. As the anchorage is extensively used by recreational vessels, two new anchorage areas are being proposed to

accommodate vessels that will be displaced when the new piers are built. The new anchorages are already being used by recreational vessels as overflow from the existing anchorage. To date, no problems have arisen from recreational vessels anchoring in these areas. Since the marina plans were published in the local newspaper, there has been considerable public interest in establishing new anchorages to replace the existing anchorage.

Proposed Ashley River Anchorage Number One would be located on the waters lying within an area across the Ashley River Channel from the George M. Lockwood Municipal Marina bounded by the southwest side of the channel beginning at latitude 32°46'43.7"N, longitude 079°57'19.3"W; thence to latitude 32°46'38.0"N, longitude 079°57'24.0"W; thence to latitude 32°46'32.0"N, longitude 079°57'15.5"W; thence to latitude 32°46'29.0"N, longitude 079°57'00.9"W; thence back to the beginning following the southwest boundary of the Ashley River Channel. All coordinates referenced use Datum: NAD 1983.

Proposed Ashley River Anchorage Number Two would be located on the waters lying within an area across the Ashley River Channel from the Ashley Marina bounded by the southwest side of the channel beginning latitude 32°46'53.0"N, longitude 079°57'34.5"W; thence to latitude 32°46'50.5"N, longitude 079°57'40.5"W; thence to latitude 32°46'46.0"N, longitude 079°57'34.5"W; thence to latitude 32°46'49.0"N, longitude 079°57'28.7"W; thence back to the beginning following the southwest boundary of the Ashley River Channel. All referenced coordinates use Datum: NAD 1983.

These proposed anchorage areas will provide that vessels no more than sixty-five feet in length, when anchored in the anchorage areas, shall not be required to carry or exhibit the white anchor lights required by the Navigation Rules.

#### Regulatory Evaluation

This proposal 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 been exempted from review 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. The proposed anchorage areas described in this notice are currently being used by recreational vessels as over flow from the existing anchorage.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

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

#### Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal and has determined pursuant to Section 2.B.2. of Commandant Instruction M16475.1B, that this action is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are available in the docket for inspection or copying at the location listed in **ADDRESSES**.

#### List of Subjects in 33 CFR Part 110

Anchorage grounds.

#### Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to revise Part 110 of Title 33, Code of Federal Regulations, as follows:

#### **PART 110—[AMENDED]**

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.72d is revised to read as follows:

#### **§ 110.72d Ashley River Anchorage Areas, SC.**

The following locations are special anchorage areas:

(a) Ashley River Anchorage 1. The waters lying within an area across the Ashley River Channel from the George M. Lockwood Municipal Marina bounded by the southwest side of the channel beginning at latitude

33°46'43.7" N, longitude 079°57'19.3" W; thence to latitude 32°46'38.0" N, longitude 079°57'24.0" W; thence to latitude 32°46'32.0" N, longitude 079°57'15.5" W; thence to latitude 32°46'29.0" N, longitude 079°57'00.9" W; thence back to the beginning following the southwest boundary of the Ashley River Channel. All coordinates referenced use Datum: NAD 1983.

(b) Ashley River Anchorage 2. The waters lying within an area across the Ashley River Channel from the Ashley Marina bounded by the southwest side of the channel beginning at latitude 33°46'53.0" N, longitude 079°57'34.5" W; thence to latitude 32°46'50.5" N, longitude 079°57'40.5" W; thence to latitude 32°46'46.0" N, longitude 079°57'34.5" W; thence to latitude 32°46'49.0" N, longitude 079°57'28.7" W; thence back to the beginning following the southwest boundary of the Ashley River Channel. All coordinates referenced use Datum: NAD 1983.

Dated: April 10, 1996.

P.J. Cardaci,

*Captain, U.S. Coast Guard, Acting  
Commander, Seventh Coast Guard District.*  
[FR Doc. 96-9879 Filed 4-22-96; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 262, 264, 265, and 270

[IL-64-2-5807; FRL-5459-9]

#### **Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers**

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

**ACTION:** Notice of data availability.

**SUMMARY:** This notice announces the availability of additional data that are being considered by the EPA in amending the air emission standards for hazardous waste treatment, storage, and disposal facilities (TSDF) that were published December 6, 1994 under the authority of the Resource Conservation and Recovery Act (RCRA), as amended (59 FR 62896). This notice addresses the narrow issue of an Other Thermal Treatment Facility subject to regulation under subpart P of Part 265 (40 CFR 265.370 through 265.383) being eligible to receive spent activated carbon which is a hazardous waste. The additional data are available for public inspection at the EPA RCRA Docket Office.

**DATES:** Comments on these additional data will be accepted through May 7, 1996.

**DOCKET:** The information referenced by today's notice is available for public inspection and copying in the RCRA docket. The RCRA docket numbers pertaining to this rulemaking are F-91-CESP-FFFFF, F-92-CESA-FFFFF, F-94-CESF-FFFFF, F-94-CE2A-FFFFF, and F-95-CE3A-FFFFF. The RCRA docket is located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. Hand delivery of items and review of docket materials are made at the Virginia address. The public must have an appointment to review docket materials. Appointments can be scheduled by calling the Docket Office at (703) 603-9230. The mailing address for the RCRA docket office is RCRA Information Center (5305W), U. S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

**COMMENTS:** Written comments regarding these data may be mailed to the Docket Clerk at the above-mentioned Washington, DC mailing address. Please send an original and two copies of all comments, and refer to Docket Number F-96-CE4A-FFFFF. The EPA will consider comments on the additional data that are received through May 7, 1996.

**FOR FURTHER INFORMATION CONTACT:** For information about this notice and the associated rulemaking contact the RCRA Hotline at (703) 412-9877 or toll-free at 1-800-424-9346.

**SUPPLEMENTARY INFORMATION:** This notice is available on the EPA's Clean-up Information Bulletin Board (CLU-IN). To access CLU-IN with a modem of up to 28,800 baud, dial (301) 589-8366. First time users will be asked to input some initial registration information. Next, select "D" (download) from the main menu. Input the file name "RCRA-NDA.496" to download this notice. Follow the on-line instructions to complete the download. More information about the download procedure is located in Bulletin 104; to read this type "B 104" from the main menu. For additional help with these instructions, telephone the CLU-IN help line at (301) 589-8368.

On December 6, 1994, the EPA published in the Federal Register (59 FR 62896) under authority of the RCRA standards requiring the use of air emission controls on certain tanks, surface impoundments, and containers at hazardous waste TSDF. These standards are codified in 40 CFR parts 264 and 265 under subpart CC (referred to as the "subpart CC standards").

This Notice of Data Availability addresses the appropriateness of an Other Thermal Treatment Facility subject to regulation under subpart P of Part 265 (40 CFR 265.370 through 265.383) being eligible to receive spent activated carbon which is a hazardous waste. In the December 6, 1994 final subpart CC standards (59 FR 62896), the EPA established a requirement that spent activated carbon removed from a control device had to be managed at particular types of facilities, namely regulated incinerators, regulated boilers or industrial furnaces, or "thermal treatment units that [are] permitted under subpart X of 40 CFR part 264 or subpart P of [Part 265]". See 40 CFR 265.1033(l)(1) as promulgated at 59 FR at 62935 (Dec. 6, 1994). A parallel requirement was contained in 40 CFR 264.1033(m), but no reference to subpart P was included (59 FR at 62927). In the February 9, 1996 technical correction notice, the EPA amended these provisions to clarify that they apply only to activated carbon which is a hazardous waste, and that interim status incinerators and boilers and industrial furnaces which had certified compliance could receive such activated carbon. See 61 FR at 4910, 4911, and 4913. In so doing, the EPA removed the reference to subpart P facilities in 265.1033(l)(1), thus removing such facilities from eligibility to receive hazardous waste spent activated carbon from interim status facilities, but did not provide any explanation for this omission.

The Response to Comment Background Information Document to the Final Rule does not completely clarify the EPA's intent. At one point the EPA mentioned subpart P facilities as potentially eligible to receive hazardous waste spent activated carbon (BID page 6-113 and 114), but at other points indicated that only other thermal treatment units permitted under subpart X would be eligible (BID at 6-116 and 117).

After publication of the February 9 notice, the EPA received a letter from a subpart P facility which reactivates spent activated carbon questioning the omission of subpart P facilities from amended 265.1033(l). The EPA is noticing this letter, along with memoranda documenting EPA's further contacts with the facility, for comment. The EPA is also seeking comment on the following issues. The subpart CC standards specify the types of facilities that can manage hazardous waste spent activated carbon so that EPA can ensure that any adsorbed hazardous organic