

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 165**

[CGD09-01-005]

RIN 2115-AE84

**Cleveland Harborfest: Regulated Navigation Area and Moving Safety Zones, Cuyahoga River and Cleveland Harbor, Cleveland, OH****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary Regulated Navigation Area (RNA) during the Cleveland Harborfest event in the Port of Cleveland, Ohio, from 4 p.m. on Wednesday, July 11, 2001 until the event's conclusion at 4 p.m. on Monday, July 16, 2001. The Coast Guard will also establish a Moving Safety Zone in conjunction with the parade of ships ("Parade of Sails") as they transit Cleveland Harbor from 1 p.m. until 7 p.m. on Wednesday, July 11, 2001. These regulations are necessary to ensure the safe navigation of vessels and the safety of life and property during periods of heavy vessel traffic.

**DATES:** Comments must reach the Coast Guard on or before May 21, 2001.

**ADDRESSES:** You may mail comments and related material to Coast Guard Marine Safety Office (MSO) Cleveland (CGD09-01-005), 1055 East Ninth Street, Cleveland, Ohio, 44114. Coast Guard MSO Cleveland 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 available for inspection or copying at Coast Guard MSO Cleveland between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant John Natale, Chief Port Operations Department, Coast Guard MSO Cleveland (216) 937-0111.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09-01-005), 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 they reached us, please include 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 plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard MSO Cleveland 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**

During Cleveland Harborfest, tall ships will moor at the Cleveland Port Authority in Cleveland Harbor. The portion of the Cuyahoga River between the Norfolk & Southern Number One Lift Bridge and Nautica Stage is the proposed area to be designated as a RNA. The RNA is necessary in this area of the Cuyahoga River due to the narrow channel and the need to manage the transits of large commercial freighters and the expected congestion from recreational vessel traffic. The proposed RNA will enhance vessel safety on the river by restricting vessel movement and setting mooring restrictions along the riverbanks.

A Moving Safety Zone will include the areas around and between all the vessels participating in the Parade of Sails during their transit in Cleveland Harbor and vicinity on Wednesday, July 11, 2001. The Moving Safety Zone will include the area within and bounded by an imaginary boundary extending a distance of 100 yards ahead of the line of vessels in the parade, 50 yards abeam each vessel and the line formed by the parade of vessels, and 50 yards astern of the last vessel in the parade. The Moving Safety Zones will ensure that spectator craft do not impede the path of any of the parade vessels.

The vessel congestion due to the large number of participating and spectator vessels poses a significant threat to the safety of life. This proposed rulemaking is necessary to ensure the safety of life on the navigable waters of the United States.

**Discussion of Proposed Rule**

During this event, tall ships will moor at the Cleveland Port Authority in Cleveland Harbor. The portion of the Cuyahoga River between the Norfolk & Southern Number One Lift Bridge and

Nautica Stage is the proposed area to be designated as a RNA, since this very narrow area of the river is expected to contain heavy recreational vessel traffic and commercial freighter traffic. All recreational vessels shall remain on the west bank of the river channel during southbound transits and on the east bank during northbound transits.

Recreational vessels will be required to proceed at no-wake speed; maintain headway if conditions permit; and will not be allowed to cross the center of the channel except at the northern and southern ends of the RNA. The provision restricting recreational vessels from crossing the channel centerline does not apply to vessels getting underway from a berth within the RNA, or to vessels outbound from the Old River. The permanent Safety Zones currently in effect on the Cuyahoga River (33 CFR 165.903) remain unchanged. However, in addition to those permanent Safety Zones, recreational vessels will not be allowed to moor more than six vessels abeam anywhere in the RNA, including in the safety zones within the RNA, and must depart the area when directed.

Recreational vessels docking in the RNA may maneuver to do so, but shall not linger awaiting availability of a mooring. Permission to deviate from the above rules must be obtained from the Coast Guard Captain of the Port or his representative at (216)-937-0111 any time before July 11, 2001, and during the event (Jul 11-16) by contacting "Coast Guard Cleveland Harbor Traffic" by VHF/FM radio Channel 6 or by telephone at (216) 695-9794. Commercial vessels will be allowed to transit the center of the channel and may be escorted by a Coast Guard vessel. All commercial vessels must contact "Coast Guard Cleveland Harbor Traffic" on VHF/FM radio Channel 6 at least 30 minutes before entering the RNA.

In order to ensure vessel safety, a Moving Safety Zone is proposed for the vessels participating in the Tall Ships Parade of Sails, which will be held upon their arrival in Cleveland on Wednesday, July 11, 2001. The Moving Safety Zone will be in effect around the vessels participating in the parade. The Moving Safety Zone will begin at 3 p.m. on Wednesday, July 11, 2001 at mustering point 41°31'30" N, 081°45'00" W, in Lake Erie approximately two miles northwest of the Cleveland Harbor West Pierhead light. The parade will begin at 3 p.m. on Wednesday, July 11, 2001 at the mustering point. The parade will proceed eastward to position 41°31'30" N, 081°43'54" W, then

proceed southeastward to position 41°30'21" N, 081°42'45" W inside the Cleveland breakwall. The parade will continue northeastward on the inside of the breakwall to position 41°32'36" N, 081°38'45" W. The parade will then proceed northwestward into Lake Erie to position 41°34'39" N, 081°39'42" W, then northeastward to position 41°35'18" N, 081°38'39" W, and then southward back to the breakwall at position 41°32'39" N, 081°38'39" W. The parade will continue southwestward inside of the breakwall to position 41°30'49" N, 081°42'00" W, and the parade vessels will then moor in the vicinity of Cleveland Port Authority Dock Number 32. The Moving Safety Zone will terminate at Cleveland Port Authority Dock Number 32 at 7 p.m. on Wednesday, July 11, 2001.

### Regulatory Evaluation

This proposed 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. The Office of Management and Budget has not reviewed it 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The RNA and Moving Safety Zones will be in effect for a limited time, and extensive advance notice will be made to the maritime community via Local Notice to Mariners, facsimile, and marine safety information broadcasts. These temporary regulations are tailored to impose a minimal impact on maritime interests without compromising safety. Compensating for any adverse impacts are the favorable economic impacts that these events will have on commercial activity in the area as a whole from the boaters and tourists these events are expected to attract.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would affect the following entities, some of which might be small entities: the owners of businesses along the regulated portion of Cuyahoga River, and the owners or operators of vessels intending to transit in the regulated portion of the Cuyahoga River or Cleveland Harbor from 3 p.m. on Wednesday, July 11, 2001 through 4 p.m. on Monday, July 16, 2001. The proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: The rule will be in effect for a short time, and though it would apply to the entire width of the river or harbor channel, commercial traffic would be allowed to pass through with the permission of the Coast Guard Patrol Commander. Before the effective period, we will issue an extensive advance notice of the event to the maritime community via Local Notice to Mariners, facsimile, marine safety information broadcasts, and through the local Harbor Safety Committee.

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 proposed rule would economically affect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Coast Guard MSO Cleveland at the address listed under **ADDRESSES**.

### Collection of Information

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

### Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. The proposed rule would not impose an unfunded mandate.

### Taking of Private Property

This proposed rule would 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 rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

### Environment

We considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph 34(g) and (h), and paragraph 35(a) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. This rule will not cause significant impacts on the environment; significantly change existing environmental conditions; have more than a minimal impact on protected properties; or provide

inconsistencies with State, local or Federal laws. A "Categorical Exclusion Determination" is available in the docket where indicated under

**ADDRESSES.**

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

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, 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. 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 § 165.T09–005 to read as follows:

**§ 165.T09–005 Regulated Navigation Area: Cleveland Harborfest, Cuyahoga River, Cleveland, Ohio.**

(a) *Location:* The following area is a Regulated Navigation Area (RNA): All

waters on the Cuyahoga River between the Norfolk and Southern Number One lift bridge, river mile 0.76, and Nautica Stage, Cleveland, Ohio as shown in Figure 165.T09–005(d).

(b) *Effective Date:* These regulations are in effect from 4 p.m. on Wednesday, July 11, 2001 through 4 p.m. on Monday, July 16, 2001.

(c) *Regulations:*

(1) Recreational vessels within the RNA shall remain on the west bank of the river channel during southbound transits and on the east bank during northbound transits.

(2) Recreational vessels shall proceed at no-wake speed; maintain headway if conditions permit; and will not cross the center of the channel except at the northern and southern ends of the RNA. The provision restricting recreational vessels from crossing the channel centerline does not apply to vessels getting underway from a berth within the RNA, or to vessels outbound from the Old River.

(3) The permanent Safety Zones currently in effect on the Cuyahoga River (33 CFR 165.903) remain unchanged. In addition, recreational

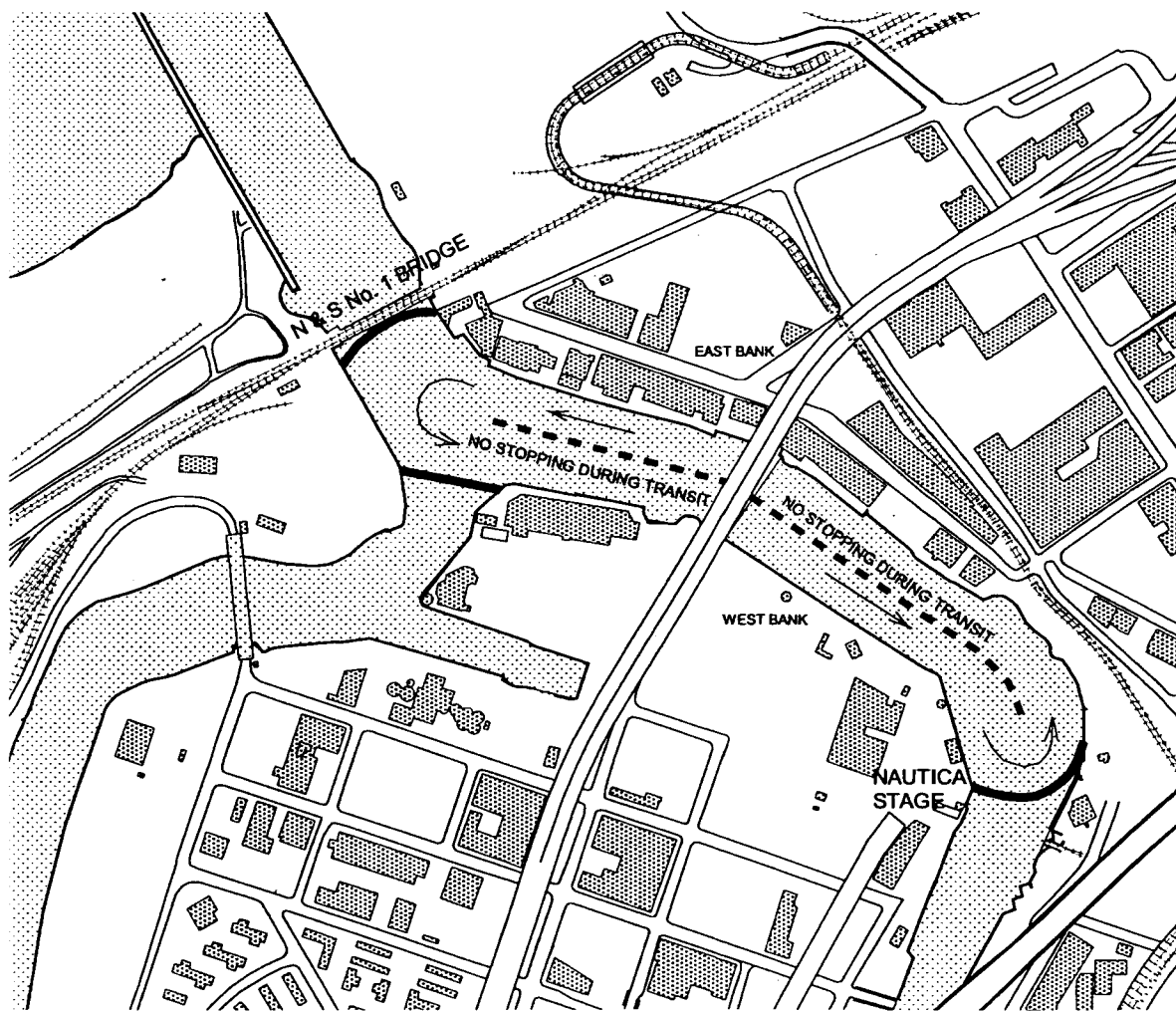
vessels may not moor more than six vessels abeam anywhere in the RNA, and must depart the area when directed. These additional mooring and departure requirements apply to all vessels within the RNA, including those moored under pre-existing waivers granted under 33 CFR 165.903(b)(3). Recreational vessels docking in the RNA may maneuver to do so, but shall not linger awaiting availability of a mooring. Permission to deviate from the above rules must be obtained from the Coast Guard Captain of the Port or his representative at (216) 937–0111 any time before July 11, 2001, and during the event (Jul 11–16) by contacting "Coast Guard Cleveland Harbor Traffic" by VHF/FM radio Channel 6 or by telephone at (216) 695–9794.

(4) Commercial vessels will be allowed to transit the center of the channel and may be escorted by a Coast Guard vessel. All commercial vessels must contact "Coast Guard Cleveland Harbor Traffic" on VHF/FM radio Channel 6 at least 30 minutes before entering the RNA.

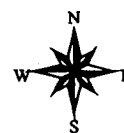
**BILLING CODE 4910–15–P**

165.T09-005(d)

# CLEVELAND HARBORFEST 2001 CUYAHOGA RIVER REGULATED NAVIGATION AREA



**TRAFFIC SEPERATION SCHEME**  
RIVER CENTER LINE  
LIMITS OF RNA  
WATER  
RAILROAD



0 100 Yards

3. Add temporary § 165.T09-006 to read as follows:

**§ 165.T09-006 Moving Safety Zones: Cleveland Harborfest, Cleveland Harbor and Lake Erie, Cleveland, Ohio.**

(a) *Location:* The waters of Cleveland Harbor and Lake Erie, Cleveland, Ohio.

(b) *Effective Date:* These regulations are in effect from 1 p.m. until 7 p.m. on Wednesday, July 11, 2001.

(c) *Regulations:*

(1) The following areas are designated as Moving Safety Zones: All waters within and bounded by an imaginary boundary extending a distance of 100 yards ahead of the line of vessels in the parade, 50 yards abeam each vessel and the line formed by the parade of vessels, and 50 yards astern of the last vessel in the parade. The Moving Safety Zone will be in effect around the vessels participating in the parade. The Moving Safety Zone will begin at 3 p.m. on Wednesday, July 11, 2001 at mustering point 41°31'30" N, 081°45'00" W, in Lake Erie approximately two miles northwest of the Cleveland Harbor West Pierhead light. The parade will begin at 3 p.m. on Wednesday, July 11, 2001 at the mustering point. The parade will proceed eastward to position 41°31'30" N, 081°43'54" W, then proceed southeastward to position 41°30'21" N, 081°42'45" W inside the Cleveland breakwall. The parade will continue northeastward on the inside of the breakwall to position 41°32'36" N, 081°38'45" W. The parade will then proceed northwestward into Lake Erie to position 41°34'39" N, 081°39'42" W, then northeastward to position 41°35'18" N, 081°38'39" W, and then southward back to the breakwall at position 41°32'39" N, 081°38'39" W. The parade will continue southwestward inside of the breakwall to position 41°30'49" N, 081°42'00" W, and the parade vessels will then moor in the vicinity of Cleveland Port Authority Dock Number 32. The Moving Safety Zone will terminate at Cleveland Port Authority Dock Number 32 at 7 p.m. on Wednesday, July 11, 2001.

(2) All vessel operators shall comply with the instructions of the U.S. Coast Guard Captain of the Port Cleveland, Ohio, or the designated on-scene U.S. Coast Guard patrol personnel including commissioned, warrant, and petty officers. Permission to deviate from the above rules must be obtained from the Captain of the Port or his representative by VHF/FM radio, Channel 6 or by telephone at (216) 701-8389.

Dated: March 13, 2001.

**James D. Hull,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District, Cleveland, Ohio.*  
[FR Doc. 01-7078 Filed 3-21-01; 8:45 am]

**BILLING CODE 4910-15-p**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

**[AD-FRL-6955-9]**

**RIN 2060-AF29**

**National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese**

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

**ACTION:** Proposed rule; amendments.

**SUMMARY:** We are proposing to amend the national emission standards for hazardous air pollutants (NESHAP) for Ferroalloys Production: Ferromanganese and Silicomanganese (40 CFR Part 63, Subpart XXX). Changes are being made in response to a petition for reconsideration submitted to the EPA following promulgation of the final rule, and a petition for review filed in the U.S. Court of Appeals for the District of Columbia Circuit. The revisions establish new emission limitations for ferromanganese and silicomanganese production in open submerged arc furnaces. We are establishing four subcategories within this category of furnaces and specifying numerical emission limitations for particulate matter (PM) for each, in order to account for differences in emission potential and control due to differences in furnace size, operating conditions, and alloy type.

In the Rules and Regulations section of this **Federal Register**, we are making this amendment in a direct final rule because we view these amendments as noncontroversial and we anticipate no adverse comments. We have explained our reasons for this amendment in the preamble to the direct final rule.

**DATES:** *Comments.* Submit comments on or before April 23, 2001.

*Public Hearing.* If anyone contacts us requesting to speak at a public hearing by April 11, 2001, we will hold a public hearing on April 23, 2001.

**ADDRESSES:** By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-92-59, U.S. Environmental Protection Agency, 1200

Pennsylvania Avenue, NW, Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-92-59, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below.

*Public Hearing.* If a public hearing is held, it will be held at 10:00 a.m. in our Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

*Docket.* Docket No. A-92-59 contains supporting information used in developing the standards and guidelines. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 in room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Conrad Chin, Metals Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541-1512; facsimile (919) 541-5600; electronic mail address: chin.conrad@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** A direct final rule identical to this proposal is published in the Rules and Regulations section of this **Federal Register**. If adverse comments are received on this proposal, the direct final rule will be withdrawn and the comments will be addressed in a subsequent final rule. If adverse comments are received only on a discrete portion of the rule, we will consider withdrawing only that portion of the rule. If no significant adverse comments are received, no further action will be taken on this proposal and the direct final rule will become effective on May 21, 2001.

The regulatory text for this proposal is identical to that for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For further supplementary information, see the direct final rule published in the **Federal Register**.

**What Are the Administrative Requirements for This Action?**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, not subject to review by the Office of Management and Budget. In addition, since this action establishes no