

thence to 47°35'42" N, 122°16'24" W; thence to the east side of the entrance to the west highrise of the Interstate 90 bridge; thence westerly along the south side of the bridge to the shoreline on the western terminus of the bridge; thence southerly along the shoreline to Andrews Bay at 47°33'06" N, 122°15'32" W; thence northeast along the shoreline of Bailey Peninsula to its northeast point at 47°33'44" N, 122°15'04" W; thence easterly along the east-west line drawn tangent to Bailey Peninsula; thence northerly along the shore of Mercer Island to the point of origin. [Datum: NAD 1983]

(c) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person or vessel may enter or remain in the zone except for support vessels and support personnel, vessels registered with the event organizer, or other vessels authorized by the Captain of the Port or his designated representatives. Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or his designated representatives.

Dated: January 16, 2004.

**Danny Ellis,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 04-2748 Filed 2-9-04; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-03-025]

RIN 1625-AA00

#### Safety Zone; Coast Guard Station Fire Island, Fire Island, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a safety zone in the waters adjacent to Coast Guard Station Fire Island, Fire Island, New York. This proposed zone would ensure safety of the boating community and Coast Guard vessels when prompt response is needed for Coast Guard vessels to respond to mariners' or other requests for assistance. This zone would exclude all vessels from operating within the prescribed safety zone without first obtaining authorization from the Captain of the Port, Long Island Sound.

**DATES:** Comments and related material must reach the Coast Guard on or before April 12, 2004.

**ADDRESSES:** You may mail comments and related material to Waterways Management, Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT 06512. Coast Guard Group/MSO Long Island Sound 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 Group/MSO Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant A. Logman, Waterways Management Officer, Coast Guard Group/Marine Safety Office Long Island Sound at (203) 468-4429.

#### 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 (CGD01-03-025), 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 submission 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 Coast Guard Group/Marine Safety Office Long Island Sound 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

United States Coast Guard Station (STA) Fire Island is located in Babylon, New York, on the northern shore of Fire Island, Long Island, New York. The waters north of Station, Fire Island Inlet, attract numerous recreational and small

charter fishing vessels each year from May through October. Throughout the summer months and fishing season, the waters immediately surrounding the Station and within a quarter mile radius of the Station become heavily congested with vessels, mainly consisting of recreational boaters. The accumulation of vessels immediately in front of the station present a continuous hindrance to the safety of Coast Guard vessels responding to search and rescue or other maritime emergencies, and hamper their ability to respond expeditiously. The proposed zone would be established by reference to coordinates, representing an area approximately 100 yards seaward from STA Fire Island vessels, facilities and property.

The proposed zone has been tailored to fit the needs of safety, while minimizing the impact on the maritime community. All coordinates are North American Datum 1983.

No person or vessel would be permitted to enter or remain in a prescribed safety zone for any time without the permission of the COTP. Each person or vessel in the proposed safety zone would be required to obey any direction or order of the COTP. Any violation of the proposed safety zone described herein, would be punishable by, among others, civil penalties (not to exceed \$32,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 6 years and a fine of not more than \$250,000), in rem liability against the offending vessel, or license sanctions. This regulation is proposed under the authority contained in 33 U.S.C. 1223 and 1225 and the regulations promulgated thereunder.

##### 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 it under that Order. It 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 proposed regulation could have some impact on the public, but these potential impacts would be minimized because the proposed safety zone would encompass

only a small portion of Fire Island Inlet allowing sufficient room for vessels to operate or anchor outside of the zone.

### 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.

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. This proposed rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in that portion of Fire Island Inlet covered by the proposed safety zone.

For the reasons outlined in the Regulatory Evaluation section above, this proposed rule would not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants 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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant A. Logman, Waterways Management Officer, Group/Marine Safety Office Long Island Sound, at (203) 468–4429.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions

annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

### 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

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

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

### Indian Tribal Governments

This proposed rule would not have tribal implications under Executive

Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the *Federal Register* (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule could impact tribal governments, even if that impact would not constitute a “tribal implication” under the Order.

### 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 would not be a “significant energy action” under that order because it would not be a “significant regulatory action” under Executive Order 12866 and would not likely 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.

### Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this proposed rule is categorically excluded from further environmental documentation. 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, 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. Add § 165.152 to read as follows:

**§ 165.152 Coast Guard Station Fire Island, Long Island, New York—safety zone.**

(a) *Location.* The safety zone consists of all waters of Fire Island Inlet encompassed by a line connecting the following points, 40°37.523' N, 073°15.685' W; then north to 40°37.593' N, 073°15.719' W; then east to 40–37.612 N, 073°15.664' W; then east to 40°37.630' N, 073°15.610' W; then east to 40°37.641' N, 073°15.558' W; then southeast to 40°37.630' N, 073°15.475' W; then southeast to 40°37.625' N, 073°15.369' W; then southeast to 40°37.627' N, 073°15.318' W; then southeast to point on shore at 40°37.565' N, 073°15.346' W. All coordinates are North American Datum 1983.

(b) *Regulations.* (1) The general regulations contained in 33 CFR § 165.23 apply.

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

Dated: November 17, 2003.

**Joseph J. Coccia,**

*Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.*

[FR Doc. 04–2746 Filed 2–9–04; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 3**

**RIN 2900–AL38**

**Testimony Certified or Under Oath**

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** This document withdraws a proposed rule that would have removed the adjudication regulation that requires written and oral testimony to be certified or given under oath or affirmation in most cases. This proposed rule was erroneously published in the **Federal Register** on July 31, 2002, at 67 FR 49646, under a previously deleted Regulatory Identification Number (RIN 2900–AK24). The proposal is being withdrawn because the Department of

Veterans Affairs is revising and republishing its part 3 compensation and pension regulations to make them easier to understand and apply. To ensure that this proposal is consistent with other related regulations being rewritten and published in that project, it is being withdrawn at this time. The Regulation Rewrite Project plans to republish this proposed rulemaking within one of its packages of regulations, “General Evidence Requirements, Effective Dates, Revision of Decisions, and Protection of Existing Ratings.”

**FOR FURTHER INFORMATION CONTACT:** Bill Russo, Chief of C&P Rewrite Projects (00REG2), Office of Regulation Policy and Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–9515. This is not a toll-free number.

Approved: February 3, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

[FR Doc. 04–2795 Filed 2–9–04; 8:45 am]

**BILLING CODE 8320–01–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[WV063–6032b; FRL–7613–1]**

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; MOBILE6-Based Motor Vehicle Emission Budgets for Greenbrier County and the Charleston, Huntington, and Parkersburg 1-Hour Ozone Maintenance Areas**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve revisions to the West Virginia State Implementation Plan (SIP). The revisions amend the 1-hour ozone maintenance plans for Greenbrier County and the Charleston, Huntington and Parkersburg areas. These revisions amend the maintenance plan’s base year and 2005 highway mobile volatile organic compound (VOC) and nitrogen oxide (NO<sub>x</sub>) emission inventories and the 2005 motor vehicle emissions budgets (MVEBs) to reflect the use of MOBILE6. These revisions also reallocate a portion of each plans’ safety margins which results in an increase in the MVEBs. The revised plans continue to demonstrate maintenance of the 1-hour national ambient air quality standard (NAAQS) for ozone. In the

final rules section of this **Federal Register**, EPA is approving West Virginia’s SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by March 11, 2004.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Larry Budney, Energy, Radiation and Indoor Environment Branch, Mailcode 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to [budney.larry@epa.gov](mailto:budney.larry@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in the Supplementary Information section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and at the West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE., Charleston, WV 25304–2943.

**FOR FURTHER INFORMATION CONTACT:** Larry Budney, (215) 814–2184, or by e-mail at [budney.larry@epa.gov](mailto:budney.larry@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the “Rules and Regulations” section of this **Federal Register** publication.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number, WV063–6032, in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the