

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 calls 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 the rule 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 does 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 rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

#### 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 is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g) of the

Instruction from further environmental documentation. Under figure 2-1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

#### 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. In § 165.1312 revise paragraph (d) to read as follows:

#### § 165.1312 Security Zone; Portland Rose Festival on Willamette River.

\* \* \* \* \*

(d) *Enforcement period.* This section is enforced annually in June from the first Wednesday in June falling on the 4th or later through the following Monday in June. The event will be 6 days in length and the specific dates of enforcement will be published each year in the **Federal Register**. In 2005, the zone will be enforced on Wednesday, June 8, through Monday, June 13.

Dated: April 20, 2005.

**Daniel T. Pippenger,**

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

[FR Doc. 05-9154 Filed 5-6-05; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 05-006]

RIN 1625-AA87

#### Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise the perimeter of the existing

security zone that extends approximately 150 feet into the navigable waters of the Oakland Estuary, Alameda, California, around the United States Coast Guard Island Pier to coincide with the perimeter of a floating security barrier. This action is necessary to provide continued security for the military service members on board vessels moored at the pier and the government property associated with these valuable national assets. This security zone would prohibit all persons and vessels from entering, transiting through, or anchoring within a portion of the Oakland Estuary surrounding the Coast Guard Island Pier unless authorized by the Captain of the Port (COTP) or his designated representative.

**DATES:** Comments and related material must reach the Coast Guard on or before June 8, 2005.

**ADDRESSES:** You may mail comments and related material to the Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California 94501. The Waterways Management Branch 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 the Waterways Management Branch between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Doug Ebbers, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437-3073.

#### **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 (05-006), 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 that 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 the Waterways Management Branch 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 separate notice in the **Federal Register**.

#### **Background and Purpose**

In its effort to thwart potential terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Espionage Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

On January 29, 2004, we published a notice of proposed rulemaking (NPRM) entitled "Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA" in the **Federal Register** (69 FR 4267) proposing to establish a security zone extending approximately 150 feet around the Coast Guard Island Pier in the navigable waters of the Oakland Estuary in Alameda, California. We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. On June 7, 2004, we published a final rule (codified as 33 CFR 165.1190) with the same title in the **Federal Register** (69 FR 31737) that established a security zone extending approximately 150 feet around the Coast Guard Island Pier in the navigable waters of the Oakland Estuary in Alameda, California.

Since that time, the Coast Guard has determined that a floating security barrier should also be installed to provide an added level of security for the Coast Guard Cutters that moor at the Coast Guard Island Pier. Because the navigational channel is less than 150 feet from the two ends of the Coast Guard Island Pier, and in order to provide approximately 150 feet of maneuvering space for the cutters along

the entire length of the pier, the barrier would extend into the navigational channel approximately 30 to 50 feet at each end.

In this NPRM, the Coast Guard is proposing to revise the perimeter of the existing security zone around the Coast Guard Island pier to mirror the perimeter of a proposed floating security barrier. The need for the security zone still exists due to heightened security concerns and the catastrophic impact a terrorist attack on a Coast Guard Cutter would have on the crew on board and surrounding government property.

#### **Discussion of Proposed Rule**

The Coast Guard proposes to revise the existing security zone around and under the Coast Guard Island Pier that encompasses all waters of the Oakland Estuary, extending from the surface to the sea floor, within approximately 150 feet of the pier. The revision to the existing security zone would ensure that a proposed floating security barrier could be installed and that the perimeter of the security zone would provide the necessary maneuvering space for Coast Guard Cutters. The perimeter of the proposed security barrier is located along the following coordinates: commencing at a point on land approximately 150 feet northwest of the northwestern end of the Coast Guard Island Pier at latitude 37°46'52.73" N and longitude 122°15'06.99" W; thence to the edge of the navigable channel at latitude 37°46'51.83" N and longitude 122°15'07.47" W; thence to a position approximately 30 feet into the charted navigation channel at latitude 37°46'51.27" N and longitude 122°15'07.22" W; thence closely paralleling the edge of the charted navigation channel to latitude 37°46'46.75" N and longitude 122°15'00.21" W; thence closely paralleling the edge of the charted navigation channel to a point approximately 50 feet into the charted navigation channel at latitude 37°46'42.36" N and longitude 122°14'51.55" W; thence to a point on land approximately 150 feet southeast of the southeastern end of the Coast Guard Island Pier at latitude 37°46'43.94" N and longitude 122°14'49.89" W; thence northwest along the shoreline back to the beginning point.

The security zone continues to be needed for national security reasons to protect Coast Guard Cutters, their crews, the public, transiting vessels, and adjacent waterfront facilities from potential subversive acts, accidents or other events of a similar nature. Entry into the revised security zone would be

prohibited unless specifically authorized by the Captain of the Port or his designated representative.

### 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. Although this proposed rule restricts access to the waters encompassed by the security zone, the effect of this proposed rule would not be significant for the following reasons: (i) Vessel traffic would be able to pass safely around the area, (ii) vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the proposed security zone to engage in these activities, (iii) the perimeter of the proposed security zone would only extend 30 to 50 feet into the 500-foot wide navigational channel, and (iv) this proposed security zone is only slightly larger than the Coast Guard Island security zone that has been in place since July 7, 2004.

The size of the proposed zone is the minimum necessary to provide adequate protection for Coast Guard Cutters, their crews, other vessels and crews operating in the vicinity, adjoining areas, and the public while allowing adequate maneuvering space for the Coast Guard Cutters. The entities most likely to be affected are tug and barge companies transiting the Oakland Estuary and pleasure craft engaged in recreational activities and sightseeing.

### 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. We expect this proposed rule may affect owners and operators of private and commercial vessels, some of which may be small entities, transiting the Oakland Estuary. The proposed security zone would not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Vessel traffic would be able to pass safely around the area, (ii) vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the proposed security zone to engage in these activities, and (iii) the perimeter of the proposed security zone would only extend 30 to 50 feet into the 500-foot wide navigational channel. In addition, small entities and the maritime public would be advised of this revision to the existing security zone via public notice to mariners.

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 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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Doug Ebbers, Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437–3073. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

### Indian Tribal Governments

This proposed rule does 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.

### 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 is not a "significant energy action" under that order because it is not a "significant regulatory action"

under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone.

A draft “Environmental Analysis Check List” and a draft “Categorical Exclusion Determination” (CED) are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

#### 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. Revise § 165.1190 to read as follows:

#### § 165.1190 Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA.

(a) *Location.* The following area is a security zone: All navigable waters of the Oakland Estuary, California, from the surface to the sea floor, approximately 150 feet into the Oakland Estuary surrounding the Coast Guard Island Pier. The perimeter of the security zone follows the same perimeter as the floating security barrier installed around the Coast Guard Island pier. The perimeter of the security barrier is located along the following coordinates: Commencing at a point on land approximately 150 feet northwest of the northwestern end of the Coast Guard Island Pier at latitude 37°46′52.73″ N and longitude 122°15′06.99″ W; thence to the edge of the navigable channel at latitude 37°46′51.83″ N and longitude 122°15′07.47″ W; thence to a position approximately 30 feet into the charted navigation channel at latitude 37°46′51.27″ N and longitude 122°15′07.22″ W; thence closely paralleling the edge of the charted navigation channel to latitude 37°46′46.75″ N and longitude 122°15′00.21″ W; thence closely paralleling the edge of the charted navigation channel to a point approximately 50 feet into the charted navigation channel at latitude 37°46′42.36″ N and longitude 122°14′51.55″ W; thence to a point on land approximately 150 feet southeast of the southeastern end of the Coast Guard Island Pier at latitude 37°46′43.94″ N and longitude 122°14′49.89″ W; thence northwest along the shoreline back to the beginning point.

(b) *Regulations.* (1) Under § 165.33, entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, San Francisco Bay, or his designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 415–399–3547 or on VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply

with the instructions of the Captain of the Port or his designated representative.

(c) *Enforcement.* The Captain of the Port will enforce this security zone and may be assisted in the patrol and enforcement of this security zone by any Federal, State, county, municipal, or private agency.

Dated: April 28, 2005.

**Gordon A. Loebel,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, San Francisco Bay, California.*

[FR Doc. 05–9206 Filed 5–6–05; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[R04–OAR–2005–GA–0004–200504(b); FRL–7909–6]

#### Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the Georgia State Implementation Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve the State Implementation Plan (SIP) revisions submitted by the State of Georgia, through the Georgia Environmental Protection Division (GAEPD), on March 15, 2005. These revisions pertain to Georgia’s rules for Air Quality Control and were the subject of a public hearing held on March 18, 2004, and adopted by the Board of Natural Resources on April 28, 2004. The revisions became effective in the State on July 8, 2004. On September 26, 2003, EPA published a final rule in the **Federal Register** (see 68 FR 55469) reclassifying the Atlanta 1-hour ozone nonattainment area from serious to severe. These revisions satisfy the additional requirements for severe 1-hour ozone nonattainment areas. In the Final Rules section of this **Federal Register**, EPA is approving the State’s SIP revision as a direct final rule without prior proposal because the Agency views this as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments