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 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 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 would not concern 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 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. 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

2. Revise § 165.140(a)(1) to read as follows:

§ 165.140 New London Harbor, Connecticut—security zone.

* * * * *

(a)(1) Security Zone A. The waters of the Thames River west of the Electric Boat Corporation Shipyard enclosed by a line beginning at a point on the shoreline at 41°20′16″ N, 72°04′47″ W; then running west to 41°20′16″ N, 72°04′57″ W; then running north to 41°20′26″ N, 72°04′57″ W; then northwest to 41°20′28.7″ N, 72°05′01.7″ W; then north-northwest to 41°20′53.3″ N, 72°05′04.8″ W; then north-northeast to 41°21′02.9″ N, 72°05′04.9″W; then east to a point on shore at 41°21′02.9″ N, 72°04′58.2″ W. All coordinates are NAD 83.

* * * * *

Dated: April 11, 2003.

Joseph J. Coccia,

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

[FR Doc. 03–11165 Filed 5–5–03; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

Eligibility Requirements for Certain Nonprofit Standard Mail Matter

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Domestic Mail Manual standards for mail matter eligible to be sent at the Nonprofit Standard Mail rates. Specifically, it would exempt certain matter soliciting monetary donations from application of the cooperative mail rule.

DATES: Written comments must be received on or before June 5, 2003.

ADDRESSES: Written comments should be mailed or delivered to the Manager, Mailing Standards, U.S. Postal Service, 1735 N. Lynn Street, Room 3025, Arlington, VA 22209–6038. Copies of all written comments will be available for inspection and photocopying at USPS Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor N, Washington DC between 9 a.m. and 4 p.m., Monday through Friday. Comments may not be submitted via fax or email.

FOR FURTHER INFORMATION CONTACT: Jerome M. Lease, Mailing Standards, United States Postal Service, at (703)292–4184.

SUPPLEMENTARY INFORMATION: Organizations authorized to mail at Nonprofit Standard Mail rates are entitled to mail at significantly lower rates than postal customers that use the commercial Standard Mail rates. In order to prevent the abuse of these privileges, there are certain eligibility restrictions on the use of the nonprofit rates. The oldest restriction is commonly known as the cooperative mail rule. This standard is set forth in the Postal Service's Domestic Mail Manual.

The cooperative mail rule is based upon the principle that the nonprofit rates were solely intended for the benefit of organizations authorized to mail at nonprofit rates, and not for entities that have not been authorized to mail at those rates. The nonprofit rates may not be used for matter sent for or on behalf of unauthorized organizations, nor may the rates be used for mailings supporting a cooperative enterprise between nonprofit and unauthorized organizations. The cooperative mail rule does not prevent a nonprofit organization from retaining an agent to help it prepare mailings or assist with a venture that will be supported by mailings sent at the nonprofit rates. Nevertheless, if the parties' relationship exceeds a principal-agent arrangement, eligibility for nonprofit rates may be impacted.

A number of federal courts have considered the cooperative mail rule. In each case, the validity of the rule and its application in the specific case have been upheld. This includes a recent case involving fundraising mailings produced pursuant to arrangements between a for-profit professional fundraising organization and its nonprofit clients.

Over the last several years, some nonprofit organizations have made the Postal Service aware of concerns that the application of the cooperative mail rule was having a serious effect on their ability to solicit donations and, in some cases, might threaten the existence of many nonprofit organizations, particularly given the current economic climate faced by many in the nonprofit sector. The organizations of most concern include those that, because they are new, of small size, or other reasons, have to seek the assistance of professional fundraising organizations in seeking donations, rather than conduct their fundraising campaigns in-house. In many cases, the arrangements between the professional fundraiser and the nonprofit are cooperative under the longstanding application of the cooperative mail rule. Indeed, the Postal Service understands that some states require contractual terms between nonprofits and some (but not all) types of professional fundraisers to contain elements that would cause the resultant fundraising mailings to violate the cooperative mail rule.

Although the Postal Service is sensitive to the plight of these nonprofit organizations, it has been reluctant to propose an administrative solution.

Traditionally, the expansion (or reduction) of eligibility to mail at nonprofit or other preferred rates has been a legislative function. By statute, the Postal Service is not permitted to discriminate between its customers, except where specifically authorized by law. Accordingly, it is not permitted to charge nonprofit rates to one customer while charging another the commercial rates for substantially similar material unless Congress has enacted laws directing that outcome. Moreover, since the postage on mail sent at the nonprofit rates does not bear the same share of postal overhead costs as mail sent at commercial rates, an expansion of nonprofit eligibility can transfer those overhead costs to other postal customers through higher rates. And finally, since there is a significant difference between the nonprofit and commercial rates, expansion of eligibility for the nonprofit rates can create a significant competitive advantage for the newly eligible nonprofit mailer, vis-à-vis those still mailing at the commercial rate.

Some members of the nonprofit industry also made the Postal Service aware of a separate concern that might arise if fundraising mailings were exempted from application of the cooperative mail rule. Specifically, they were concerned that, if the contractual terms between nonprofits and fundraisers were no longer a postal concern, some fundraisers might impose financial terms that could take advantage of unsophisticated nonprofits. At the same time, these parties warned that some fundraisers might seek to create nonprofit organizations of their own, for the purpose of enriching themselves off fundraising mailings rather than to benefit the public. These are, of course, serious issues. Nevertheless, they appear primarily to raise consumer protection, rather than postal, concerns. In the Postal Service's view, these social policy concerns are best addressed elsewhere, such as through federal legislation or the state officials who regulate the relationship between professional fundraisers and nonprofit organizations.

Bills to address concerns regarding application of the cooperative mail rule to fundraising mail were introduced last session in both houses of Congress. Although there appeared to be general agreement between Congressional members, the nonprofit sector, professional fundraisers, and the Postal Service concerning the utility of such legislation, issues regarding the precise wording and application of the legislation prevented its passage at that time. And, although a revised version of the bill has been proposed in the current session, the Postal Service also understands that, in view of the same questions as well as other pressing Congressional business, there is no guarantee that the legislation will be passed in the foreseeable future.

Accordingly, although it is reluctant to tread in an area historically addressed through legislation, the Postal Service has determined to propose a rule to eliminate the application of the cooperative mail rule on mailings by authorized nonprofit organizations seeking monetary donations. There appears to be bipartisan Congressional agreement that this is a worthwhile goal and that it can be accomplished most efficiently through administrative action. Additionally, representatives of the nonprofit community and the professional fundraisers that serve them appear to concur on the urgent need for this relief. It will help ensure that nonprofit organizations, particularly those who cannot implement fundraising campaigns in-house, can obtain the professional assistance needed to obtain the donations necessary to fund their vital programs.

It will also ensure that those parties do not unintentionally violate the laws of those states that regulate the financial arrangements between nonprofits and certain types of professional fundraisers.

We have several cautions regarding the breadth of this proposal. First, it only exempts fundraising mailings seeking monetary donations. Mailings that include solicitations for products or services, whether through sale, lease, or other arrangements, will not be exempt from application of the cooperative mail rule. If there is a cooperative arrangement involving such goods or services, the mailpiece will not be eligible for Nonprofit Standard mail rates. Exempting mailings advertising goods or services from application of the cooperative mail rule would create significant potential for abuse by commercial organizations and may also place small businesses and other for-profit organizations who sell similar goods and services at a significant competitive disadvantage.

Second, the only exemption is from application of the cooperative mail rule. The mailings affected will continue to be subject to all other applicable postal standards.

Third, the exemption only applies to nonprofit organizations authorized to mail at Nonprofit Standard Mail rates. Other organizations authorized to mail at those rates, currently voter registration officials and certain qualified political committees, will not be exempt from application of the cooperative mail rule on fundraising mail.

Fourth, the rule, if adopted, will be a change in postal policy rather than a clarification of existing standards. Accordingly, it would be prospective only, effective on the date of adoption. It will not provide the basis for a refund claim on mail previously entered and paid at the commercial rates nor will it provide a defense for any action, whether under the False Claims Act or otherwise, based on previous entry of ineligible material at the nonprofit rate.

Fifth, the proposed rule would not establish safeguards to address the concern that some professional fundraisers may seek to take advantage of unsophisticated clients. In our discussions with nonprofit representatives and Congressional representatives, no consensus was reached on an effective and administratively feasible method to accomplish this goal. However, this rulemaking does not prevent other interested federal or state agencies from regulating such practices. Moreover, it is also hoped that the nonprofit sector may undertake educational efforts to inform potential targets of such practices.

Finally, the Postal Service will be alert to the consequences of this new standard, should it be adopted. If it results in the types of abuses discussed here or any other unintended consequences, the Postal Service may revisit the exception and consider a further rulemaking or other appropriate administrative measures.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553(b), (c)] regarding proposed rulemaking by 39 U.S.C 410(a), the Postal Service invites comments on the following proposed revisions to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Add the following to Domestic Mail Manual section E670.5.3: ''Exception: this standard does not apply to mailings by a nonprofit organization authorized to mail at Nonprofit Standard Mail rates soliciting monetary donations and not promoting or otherwise facilitating the sale or lease of any goods or service.''

An appropriate amendment to 39 CFR part 111 will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 03–11144 Filed 5–5–03; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7486–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Pepe Field Superfund Site (Site) from the National Priorities List; request for comments.

SUMMARY: The EPA Region II Office announces its intent to delete the Pepe Field Superfund Site, located in Boonton, New Jersey from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New Jersey have determined that no further fund-financed remedial actions are appropriate at this Site and actions taken to date are protective of public health, welfare, and the environment.

DATES: Comments concerning this Site may be submitted on or before June 5, 2003.

ADDRESSEES: Comments may be mailed to: Romona Pezzella, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, NY 10007–1866, *pezzella.romona@epa.gov.*

Comprehensive information on this Site is available through the EPA Region II public docket, which is located at EPA's Region II Office in New York City, and is available for viewing, by appointment only, from 9 a.m. to 5 p.m., Monday through Friday, excluding holidays. Requests for appointments should be directed to: Romona Pezzella, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, NY 10007–1866, (212) 637–4385, *pezzella.romona@epa.gov.*

Background information from the Regional public docket is also available for viewing at the Site's information repositories located at: Boonton Holmes Public Library, 621 Main Street, Boonton, New Jersey 07005, Phone: 973–334–2980.

FOR FURTHER INFORMATION CONTACT: Romona Pezzella, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, NY 10007, Phone: (212) 637–4385, *pezzella.romona@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

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