

consider the use of voluntary consensus standards.

## Environment

We have analyzed this rule under Commandant Instruction M16475.1D, 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.

## 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 amends 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. From 5 a.m. to 9 p.m. from July 19 to July 30, 2005, a temporary § 165.T13–010 is added to read as follows:

### § 165.T13–010 Safety Zone: New Tacoma Narrows Bridge Construction Project.

(a) *Location.* The following is a safety zone: All waters of the Tacoma Narrows, Washington State, within 250 yards on either side of a line with the points of 47°16'23" N, 122°33'25" W, the Gig Harbor Shore, to 47°16'15" N, 122°33'15" W. [Datum: NAD 1983]

(b) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, no person or vessel may enter or remain in the zone except for those persons involved in the construction of the new Tacoma Narrows Bridge, supporting personnel, 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 representative.

(c) *Applicable dates.* This section applies from 5 a.m. until 9 p.m., Pacific Daylight Time, from July 19 to July 30, 2005.

Dated: July 14, 2005.

**Stephen P. Metruck,**

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

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**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01–05–072]

RIN 1625–AA00

### Safety and Security Zones: Liquefied Hazardous Gas Vessel, Liquefied Hazardous Gas Facility and Designated Vessel Transits, New York Marine Inspection Zone and Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily suspending a portion of the regulation relating to security zones around Designated Vessels within the Captain of the Port New York Zone, and adding a temporary section to allow the Captain of the Port to protect Mass Transit Ferries and other vessels that are certificated to carry 150 or more passengers as Designated Vessels. This action is necessary to safeguard these vessels from sabotage, subversive acts, or other threats. This rule prohibits entry into or movement within these security zones without permission from the Captain of the Port of New York.

**DATES:** This rule is effective from July 8, 2005 until January 8, 2006.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection and copying at Coast Guard Sector New York, 212 Coast Guard Drive, room 301, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander Brian Willis, Waterways Management Division, Coast Guard Sector New York, at (718) 354–4220.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation, and good cause exists for making it effective less than 30 days after **Federal Register** publication. Due to the potential threats of terrorist attacks against public mass transit systems and other means of

conveyance, as illustrated by the attacks in London, UK on July 7, 2005, this rulemaking is urgently necessary to protect mass transit vessels and other vessels certificated to carry 150 passengers or more, regional infrastructure, and the public from waterborne attack and subversive activity. Any delay in the establishment and enforcement of this regulation's effective date would be clearly contrary to public interest since immediate action is needed to protect the public and the United States' interests against similar acts of terrorism.

#### Background and Purpose

On July 7, 2005 the mass transit system in London, UK was devastated by simultaneous explosive attacks resulting in numerous fatalities and injuries. These attacks illustrate the potential vulnerability of mass transit systems and other means of passenger conveyance within the United States, including those maritime transit systems such as Mass Transit Ferries and other vessels certificated to carry 150 passengers or more. These acts were unforeseen and accomplished without warning. These security zones are needed to protect and safeguard the public, vessels, and vessel crews from consequences of attacks of similar nature.

#### Discussion of Rule

The Coast Guard is temporarily suspending the regulations contained in 33 CFR 165.160 relating to Designated Vessels found in paragraphs (a)(2) and (b), replacing them with a temporary regulation containing a revised definition of "Designated Vessel." The temporary section will decrease the number of passengers a vessel must be certificated to carry to qualify for Designated Vessel status from 500 to 150 and increases the types of vessels that the Captain of the Port (COTP) may effectuate in the security zone. This will allow the COTP to establish a security zone on all waters within 100 yards of any Mass Transit Ferry or any other passenger vessel certificated to carry 150 or more passengers that operates within the New York Captain of the Port Zone. Requirements from paragraph 165.160(c) will still apply to the temporary rule. All other requirements and stipulations contained in paragraphs (a)(1) and (c) of 33 CFR 165.160 will remain unchanged and in full effect.

#### Regulatory Evaluation

This 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 rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation may have some impact on the public, but these potential impacts will be minimized for the following reasons: the safety and security zones are only effective when the Captain of the Port so directs and, when effective, vessels may, at all times, transit in all areas around the Designated Vessel zones thus having a minimal impact upon navigability of the waterway.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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 rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit within 100 yards of a vessel certificated to carry more than 150 passengers.

For the reasons outlined in the Regulatory Evaluation section above, this rule will 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 rule so that they can better evaluate its effects

on them and participate in the rulemaking. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Commander Brian Willis, Waterways Management Division, at (718) 354–4220.

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 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 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This rule will 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 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 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 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 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.

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

## Environment

We have analyzed this 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. This proposed rule fits paragraph 34(g) as it suspends a portion of an existing safety and security zone and adds a temporary safety and security zone.

A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” will be 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 amends 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 and 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.

#### § 165.160 [Amended]

- 2. Suspend paragraphs(a)(2) and (b) within § 165.160 from July 8, 2005 to January 8, 2006.
- 3. Add temporary § 165.T01–072 from July 8, 2005 to January 8, 2006 to read as follows:

#### § 165.T01–072 Safety and Security Zone: Designated Vessels, New York Captain of the Port Zone.

(a) *Location*. The following areas are safety and security zones: All waters of the New York Marine Inspection Zone and Captain of the Port Zone within a 100-yard radius of any Designated Vessels.

(b) Designated Vessels (DVs). For the purposes of this section, *Designated Vessels* include: Ferries, as defined in 46 CFR 2.10–25, that are certificated to carry 150 or more passengers; other vessels certificated to carry 150 or more

passengers; vessels carrying government officials or dignitaries requiring protection by the U.S. Secret Service, or other Federal, State or local law enforcement agency; and barges or ships carrying petroleum products, chemicals, or other hazardous cargo.

(c) *Regulations*. (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

(2) All persons and vessels must comply with the Coast Guard Captain of the Port or designated on-scene patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels. Upon being hailed by siren, radio, flashing light or other means from a U.S. Coast Guard vessel or other vessel with on-scene patrol personnel aboard, the operator of the vessel shall proceed as directed.

(3) The Captain of the Port will notify the maritime community of periods during which these zones will be enforced by methods in accordance with 33 CFR 165.7.

(d) *Effective Dates*. This rule will be enforced from July 8, 2005 to January 8, 2006.

Dated: July 8, 2005.

**Glenn A. Wiltshire,**

*Captain, U.S. Coast Guard, Captain of the Port, New York.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R05–OAR–2004–IN–0001; FRL–7930–9]

### Approval and Promulgation of Implementation Plans; Indiana

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

**ACTION:** Direct final rule.

**SUMMARY:** On July 9, 2002, the Indiana Department of Environmental Management (IDEM) submitted a request that EPA approve a revision to its process weight rate rule into the Indiana State Implementation Plan (SIP). The revision clarifies rule applicability, corrects incorrect weights presented in the process weight rate table included in the rule, allows certain sources to demonstrate compliance with the rule by adopting and substituting work standard practices, clarifies the definitions of particulate and particulate

matter, and reduces duplicative recordkeeping requirements contained in the rule. EPA is approving the State’s request.

**DATES:** This “direct final” rule is effective on September 23, 2005, unless EPA receives adverse written comments by August 24, 2005. If EPA receives adverse comment, it will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2004–IN–0001, by one of the following methods: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Web site: <http://docket.epa.gov/rmepub/>. Regional RME, EPA’s electronic public docket and comments system, is EPA’s preferred method for receiving comments. Once in the system, select “quick search,” then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

E-mail: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

Fax: (312) 886–5824.

Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to RME ID No. R05–OAR–2004–IN–0001. EPA’s policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [www.regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the federal regulations.gov Web site are “anonymous access” systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.