

U.S. Highway 68; then north and west on U.S. 68 to the intersection with U.S. Highway 35; then west and north on U.S. 35 to Interstate Highway 675; then north and east on I-675 to the intersection with Federal Interstate Highway 70; then west on I-70 to the intersection with the Montgomery County line; and then north and west along the Montgomery County line to the point of beginning.

#### **Proposed Amendment to the Regulations**

If the proposed port limits are adopted, the list of CBP ports of entry at 19 CFR 101.3(b)(1) will be amended to reflect the new boundaries of the Dayton, Ohio, port of entry and "Wilmington Airport" will be deleted from the list of user-fee airports at 19 CFR 122.15(b).

#### **Authority**

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

#### **The Regulatory Flexibility Act and Executive Order 12866**

With DHS approval, CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. This proposed rule is not a significant regulatory action within the meaning of Executive Order 12866. This proposed rule also will not have a significant economic impact on a substantial number of small entities as it merely expands the limits of an existing port of entry. Accordingly, it is certified that this document is not subject to the additional requirements of the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### **Signing Authority**

The signing authority for this document falls under 19 CFR 0.2(a) because this port extension is not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, the notice of proposed rulemaking may be signed by the Secretary of Homeland Security (or his delegate).

Dated: November 14, 2006.

**Michael Chertoff,**  
Secretary.

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

**[CGD07-06-187]**

**RIN 1625-AA11**

#### **Regulated Navigation Area; San Carlos Bay, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary regulated navigation area (RNA) on the waters of San Carlos Bay, Florida. The regulated navigation area (RNA) is needed to minimize the risk of potential bridge allisions by vessels utilizing the main channel under span "A" (basculer portion) of the Sanibel Island Causeway Bridge and enhance the safety of vessels transiting the area and vehicles crossing over the bridge. This proposed rule would apply vessel traffic regulations to vessels in the RNA.

**DATES:** Comments and related material must reach the Coast Guard on or before December 21, 2006.

**ADDRESSES:** You may mail comments and related material to Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, Florida 33606-3598. The Waterways Management Division 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 Coast Guard Sector St. Petersburg between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Ronaydee Marquez at Coast Guard Sector St. Petersburg, (813) 228-2191, Ext. 8307.

#### **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 (CGD07-06-187), 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 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 Sector St. Petersburg 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**

On November 18, 2003, the Lee County Board of Commissioners issued an emergency declaration that conditions of the Sanibel Island Causeway Bridge posed an immediate threat to the safety of the traveling public. Immediate initial action was required to minimize the risk of potential bridge allisions of vessels utilizing the main channel under span "A" (basculer portion) and enhance the safety of vessels transiting the area and vehicles crossing over the bridge. The Coast Guard established an RNA (68 FR 68518, December 9, 2003) in the vicinity of the bridge from November 29, 2003, through November 28, 2004.

On November 2, 2004, Sanibel County engineers reevaluated the Sanibel Island Bridge and determined that the bridge continued to pose a threat to the safety of the traveling public. The RNA was subsequently extended from November 28, 2004, to November 28, 2005 (69 FR 70374, December 6, 2004). In January 2006, the RNA was again made effective, this time until 8 a.m., January 7, 2007 (71 FR 11507, March 8, 2006). Repairs to the bridge are still on-going, and could take several years to complete. Therefore, this proposed rule would maintain a regulated navigation area in place from January 2007 to January 2008.

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

The proposed regulated navigation area would encompass the main channel under the "A" span (basculer portion) of the Sanibel Island Causeway Bridge out to 100 feet on either side of the bridge inclusive of the main shipping channel. All vessels would be required to transit the area at no-wake speed. However, nothing in this proposed rule negates the requirement to operate at a safe speed as provided in the Navigation Rules and Regulations. A

one-way traffic scheme would be imposed within the regulated navigation area. Overtaking would be prohibited. Tug and barge traffic would be allowed to transit the regulated navigation area at slack water only. Tugs with barges would be required to be arranged in a push-ahead configuration, with barges made up in tandem, or as a side tow. Tugs would be required to be of adequate horsepower to fully maneuver the barges. Stern towing would be prohibited except by assistance towing vessels, subject to certain conditions. Assistance towing vessels would be allowed to conduct stern tows when the disabled vessel being towed is less than or equal to 30 feet in length. For disabled vessels greater than 30 feet in length, assistance towing vessels would be allowed to use a towing arrangement in which one assistance towing vessel is in the lead, towing the disabled vessel, and another assistance towing vessel is astern of the disabled vessel. Side tows are also permitted. Assistance towing vessels would be required to be of adequate horsepower to maneuver the vessel under tow and may transit the RNA at slack water only. These proposed regulations would minimize the risk of potential bridge collisions by vessels utilizing the main channel under span "A" (basculer portion) of the Sanibel Island Causeway Bridge, and enhance the safety of vessels transiting the area and vehicles crossing over the bridge.

### 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. The Coast Guard bases this finding on the following: Vessels may still transit the area, the waterway is not a major commercial route, and the Coast Guard expects only modest delays due to the nature of the marine traffic that traditionally uses this waterway.

### 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 might be small entities: The owners or operators of vessels intending to transit a portion of San Carlos Bay. This proposed regulated navigation area would not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels may still transit the area; the waterway is not a major commercial route, and the Coast Guard expects only modest delays due to the nature of the marine traffic that traditionally uses the waterway.

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 section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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 the person listed under **FOR FURTHER INFORMATION CONTACT**. 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 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 M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination 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, we believe that this proposed rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This proposed rule fits in paragraph (34)(g) because it is a regulated navigation area. A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision whether this rule should be categorically excluded 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. Add new temporary § 165.T07–187 to read as follows:

#### § 165.T07–187 Regulated Navigation Area, San Carlos Bay, Florida.

(a) *Regulated area.* The following area is a regulated navigation area (RNA): The waters bounded by the following points: NW Corner: 26°28′59″ N, 082°00′54″ W; NE Corner: 26°28′59″ N, 082°00′52″ W; SE Corner: 26°28′57″ N, 082°00′51″ W; SW Corner: 26°28′57″ N, 082°00′53″ W.

(b) *Regulations.* (1) A vessel in the RNA established under paragraph (a) of this section will operate at no-wake speed. Nothing in this rule is to be construed as to negate the requirement to at all times operate at a safe speed as provided in the Navigation Rules and Regulations.

(2) A one-way traffic scheme is established. Vessel traffic may proceed in one direction at a time through the RNA. Overtaking is prohibited.

(3) Tugs with barges must be arranged in a push-ahead configuration, with the barges made up in tandem, or as side tows. Tugs must be of adequate horsepower to maneuver the barges. Tug and barge traffic may transit the RNA at slack water only.

(4) Stern tows are prohibited except for assistance towing vessels, subject to certain conditions. Assistance towing vessels may conduct stern tows of disabled vessels that are less than or equal to 30 feet in length. For vessels that are greater than 30 feet in length, assistance towing vessels may use a towing arrangement in which one assistance towing vessel is in the lead, towing the disabled vessel, and another assistance towing vessel is astern of the disabled vessel. Side tows are also permitted. All assistance towing vessels operating within the regulated navigation area must be of adequate horsepower to maneuver the vessel under tow and the transit must be at slack water only.

(c) *Definitions.* The following definitions apply to this section:

(1) *Assistance towing* means assistance provided to disabled vessels.

(2) *Assistance towing vessels* means commercially registered or documented vessels that have been specially equipped to provide commercial

services in the marine assistance industry.

(3) *Disabled vessel* means a vessel, which, while being operated, has been rendered incapable of proceeding under its own power and is in need of assistance.

(4) *Overtaking* means a vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the stern light of the vessel but neither of her sidelights.

(5) *Slack water* means the state of a tidal current when its speed is near zero, especially the moment when a reversing current changes direction and its speed is zero. The term also is applied to the entire period of low speed near the time of turning of the current when it is too weak to be of any practical importance in navigation.

(6) *Vessel* means every description of watercraft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on the water.

(d) *Violations.* Persons in violation of these regulations will be subject to civil penalty under 33 U.S.C. 1232 of this part, to include a maximum civil penalty of \$32,500 per violation.

(e) *Effective period.* This section is effective from 8 a.m. on January 7, 2007, until 8 a.m. on January 6, 2008.

Dated: October 31, 2006.

**D.W. Kunkel,**

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R06–OAR–2006–0390; FRL–8244–7]

#### Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Baton Rouge Ozone Nonattainment Area Vehicle Miles Traveled Offset Analysis

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the Louisiana State Implementation Plan (SIP) for the Baton Rouge Ozone Nonattainment Area Vehicle Miles Traveled (VMT) Offset Analysis submitted to EPA on March 22, 2005.