

[A] presiding officer's exercise of his authority under the reparation rules must "be guided by his general responsibility for the 'fair and orderly conduct of a formal decisional proceeding.'" *Jenne v. Paine Webber, Inc.*, [1987–1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,329 at 35,424 (CFTC Aug. 31, 1988) (*quoting* Commission Regulation 12.304(a)). * * * The principles of fairness and orderliness must be understood in light of Congress's intent that our procedures provide an "inexpensive" and expeditious alternative to the courts and arbitration. *Anderson v. Beach*, [2007–2009 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,763 at 61,607 (CFTC Feb. 14, 2008).

[Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 31,322 at 62,685 (CFTC Mar. 3, 2009).

Notwithstanding this guidance, we have noticed that parties in some matters have been held to an unusually strict interpretation of the rules of practice, including nonsubstantive rules relating to document formatting. As a result, it is necessary and appropriate to issue this policy statement to clarify and provide further guidance to Commission staff and affected parties.

Rule 12.1(a), 17 CFR 12.1(a), requires that rules of practice relating to reparation proceedings under 17 CFR part 12 "shall be construed liberally so as to secure the just, speedy and inexpensive determination of the issues presented with full protection for the rights of all parties."

For example, the requirement in Rule 12.11, 17 CFR 12.11, for documents filed with the Proceedings Clerk to be signed in ink should not be applied literally to documents filed by e-mail or facsimile. The formatting requirements need not be strictly enforced, as long as pleadings are legible. This policy statement does not affect the existing right of pro se parties to file handwritten pleadings. 17 CFR 12.11(c).

In another example, the forum does not require claimants to cite specific provisions of the Act, despite language in Rule 12.13(b)(iv)(A) requiring complainants to allege "each and every act or omission which it is claimed constitutes a violation of the Act." 17 CFR 12.13(b)(iv)(A). The discussion of these rules is meant to be illustrative, not exhaustive. We expect the Commission's presiding officers, all of whom have extensive experience in this forum, to apply the Part 12 Rules generally in accordance with Rule 12.1(a).

III. Related Matters

A. No Notice Required Under 5 U.S.C. 553

The Commission has determined that this policy statement is exempt from the

provisions of the APA, 5 U.S.C. 553, which generally requires notice of proposed rulemaking and provides opportunity for public participation. In accord with the exemptive language of 5 U.S.C. 553, this policy statement gives guidance to staff members and affected parties pertaining to the administration of reparation proceedings under 17 CFR part 12. In addition, this policy statement relates solely to "rules of agency * * * practice." Therefore, the notice requirements under 5 U.S.C. 553 are not applicable.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires agencies with rulemaking authority to consider the impact those rules will have on small businesses. With respect to persons involved in reparations proceedings, the interpretive rule imposes no additional burden, and in fact provides greater flexibility in complying with Part 12. Thus, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that this policy statement will not have a significant economic impact on a substantial number of small businesses.

C. Paperwork Reduction Act

This policy statement concerning Part 12 does not impose a burden within the meaning and intent of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

D. Cost-Benefit Analysis

Section 15(a) of the Act, 7 U.S.C. 19(a), requires the Commission to consider the costs and benefits of its actions before issuing a new regulation. The Commission understands that by its terms, Section 15(a) does not require it to quantify the costs and benefits of a new regulation or to determine whether the benefits of the regulation outweigh its costs. Nor does it require that each rule be analyzed in isolation when that rule is a component of a larger package of rules or rule revisions. Rather, Section 15(a) simply requires the Commission to "consider the costs and benefits" of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. Accordingly, the Commission can, in its discretion, give greater weight to any one of the five

enumerated areas of concern, and can, in its discretion determine that notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest, or to effectuate any of the provisions, or accomplish any of the purposes, of the Commodity Exchange Act.

This policy statement will not create any significant change in the Commission's reparation proceedings. This statement will enhance the protection of market participants and the public by providing greater flexibility in complying with Part 12. This statement will make it easier for parties to participate in reparations proceedings, either as complainants or respondents. The cost-benefit factors are not influenced by this policy statement, which simply articulates and clarifies applicable law and precedent in reparation proceedings.

Issued in Washington, DC, on January 14, 2010, by the Commission.

David A. Stawick,
Secretary of the Commission.

[FR Doc. 2010–1101 Filed 1–20–10; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–1072]

RIN 1625–AA00

Safety Zone: Congress Street Bridge, Pequonnock River, Bridgeport, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters surrounding the Congress Street Bridge over the Pequonnock River in Bridgeport, Connecticut. This zone is necessary to protect vessels transiting in the area from hazards imposed by construction barges and equipment that are being utilized for partial demolition of the Congress Street Bridge. Entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, Connecticut.

DATES: This rule is effective from 11:59 p.m. on January 31, 2010, through 11:59 p.m. on April 16, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–1072 and are available online by going

to <http://www.regulations.gov>, inserting USCG-2009-1072 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail, Chief Petty Officer Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203-468-4459, Christie.M.Dixon@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to protect the public from the dangers inherent in the bridge demolition project. Also, establishing a safety zone on the Pequonnock River at this time of year should not hinder any appreciable recreational traffic and commercial traffic does not transit the portion of the river that will be impacted by the closure. The need for immediate action to protect the public makes a comment period impractical as a delay in the bridge demolition is contrary to public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. In addition to the reasons stated above, any delay encountered in the temporary rule's effective date would be contrary to the public interest given the immediate need to minimize danger to mariners prior to, during, and after demolition.

Background and Purpose

The Congress Street Bridge, owned by the City of Bridgeport, was closed in

January 1999 due to deterioration of the structural and mechanical/electrical components. It is approximately 419 feet from abutment face to abutment face and consists of a center movable span and two fixed spans on each approach. The center movable span is a double leaf rolling bascule span. The bascule span was opened to allow marine traffic to pass and the leaves locked into the open position.

From January 1, 2010 through May 15, 2010 the City of Bridgeport's Engineering Department will be removing both bascule spans and the associated operating machinery of the Bridge. The existing fender system will remain in place and power will be re-routed on the bridge to allow the existing navigation lights to continue to function during and after construction. Mariners are advised to transit the area with extreme caution during this time.

The Coast Guard is establishing a safety zone in all waters of the Pequonnock River within 100-yards to either side of the Congress Street Bridge from February 1, 2010 through April 16, 2010 during the removal of the bascule spans. This portion of the Pequonnock River will be closed to all marine traffic due to construction hazards posed to recreational vessels attempting to transit the waterway. This safety zone is necessary to protect the safety of the boating community who wish to utilize the Pequonnock River during demolition. With the exception of the Bridgeport Fire Rescue Boats, entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

Discussion of Rule

This regulation establishes a temporary safety zone on the waters of the Pequonnock River, at mile 0.4 within 100-yards to either side of the Congress Street Bridge. This action is intended to prohibit vessel traffic in a portion of the Pequonnock River in the City of Bridgeport, Connecticut to provide for the safety of the boating community due to the hazards posed by significant construction equipment and barges located in the waterway for the partial demolition of the bridge. The safety zone is being established from 11:59 p.m. on January 31, 2010, to 11:59 p.m. on April 16, 2010. Marine traffic may continue to transit the area during the January 1 to January 31 and April 17 to May 15 portions of the project. While the channel is open and the safety zone is not in place, mariners are still advised to transit the area with extreme caution. In the event of an emergency, a ten (10) foot wide passage will be maintained for the duration of the project exclusively

for the passage of Bridgeport Fire Rescue boats. With the exception of these Fire Rescue boats, entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

Any violation of the safety zone described herein is punishable by, among other things, civil and criminal penalties, *in rem* liability against the offending vessel, and the initiation of suspension or revocation proceedings against Coast Guard-issued merchant mariner credentials.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

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Regulatory Planning and Review

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. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This regulation may have some impact on the public, but the potential impact will be minimal for the following reasons: We do not anticipate that there will be any appreciable recreational traffic during the time the project will be taking place and commercial traffic does not transit the portion of the Pequonnock River that will be impacted by the closure. Vessels may transit in all areas of the Pequonnock River other than the area delineated for the safety zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this 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 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 or anchor in those portions of the Pequonnock River in the city of Bridgeport, Connecticut covered by the safety zone. 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 section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. 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, Chief Petty Officer Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203–468–4459, *christie.m.dixon@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

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

Environment

We have analyzed this temporary final rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves creation of a regulation that establishes a safety zone and therefore is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. An environmental analysis checklist and a 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, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 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.T01–1072 to read as follows:

§ 165.T01–1072 Safety Zone: Congress Street Bridge, Pequonnock River, Bridgeport, Connecticut.

(a) *Location.* The following area is a safety zone: All navigable waters of the Pequonnock River in Bridgeport, Connecticut, from surface to bottom, within 100 yards to either side of the Congress Street Bridge.

(b) *Definitions.* The following definitions apply to this section: *Designated on-scene patrol personnel*, means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, State, and Federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port, Long Island Sound.

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

(2) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port (COTP), Long Island Sound.

(3) All persons and vessels must comply with the Coast Guard Captain of the Port or designated on-scene patrol personnel.

(4) 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.

(5) Persons and vessels may request permission to enter the zone on VHF–16 or via phone at (203) 468–4401.

(d) *Effective dates.* The safety zone is being established from 11:59 p.m. on January 31, 2010, to 11:59 p.m. on April 16, 2010. Marine traffic may continue to transit the area during the January 1 to January 31 and April 17 to May 15 portions of the project. While the channel is open and the safety zone is not in place, mariners are still advised to transit the area with extreme caution.

Dated: December 29, 2009.

D.A. Ronan,

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

[FR Doc. 2010–1003 Filed 1–20–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Subtitle B, Chapter II

[Docket ID ED–2009–OESE–0010]

RIN 1810–AB06

School Improvement Grants; American Recovery and Reinvestment Act of 2009 (ARRA); Title I of the Elementary and Secondary Education Act of 1965, as Amended (ESEA)

ACTION: Interim final requirements for School Improvement Grants authorized under section 1003(g) of Title I of the ESEA; request for comments.

SUMMARY: The U.S. Secretary of Education (Secretary) amends the final requirements for School Improvement Grants (SIG) authorized under section 1003(g) of Title I of the ESEA and funded through both the Consolidated Appropriations Act, 2009 (Pub. L. 111–8) and the ARRA to incorporate new authority included in the Consolidated Appropriations Act, 2010 (Pub. L. 111–117) applicable to fiscal year (FY) 2010 SIG funds and FY 2009 ARRA SIG funds. Specifically, the Consolidated Appropriations Act, 2010 expands the group of schools that are eligible to receive SIG funds. In addition, the Consolidated Appropriations Act, 2010 raises the maximum amount of SIG funds that a State educational agency (SEA) may award to a local educational agency (LEA) for each participating school from \$500,000 to \$2,000,000. This notice incorporates these changes into the final SIG requirements that the Department published on December 10, 2009.

DATES: These requirements are effective February 8, 2010. We must receive your comments by February 22, 2010.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “How To Use This Site.”

• *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these interim final

requirements, address them to Dr. Zollie Stevenson, Jr., U.S. Department of Education, 400 Maryland Avenue, SW., room 3W320, Washington, DC 20202.

Privacy Note: The Department’s policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at <http://www.regulations.gov>. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT: Dr. Zollie Stevenson, Jr. Telephone: 202–260–0826 or by e-mail: Zollie.Stevenson@ed.gov.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotope, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation to Comment:

We invite you to submit comments regarding these interim final requirements. To ensure that your comments have maximum effect in developing the final requirements, we urge you to identify clearly the specific section or sections of the interim final requirements that each of your comments addresses and to arrange your comments in the same order as the interim final requirements.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these interim final requirements. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the SIG program.

During and after the comment period you may inspect all public comments about these interim final requirements by accessing Regulations.gov. You may also inspect the comments, in person, in room 3W100, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.