

meet the requirements for a Categorical Exclusion.

#### Unfunded Mandates Reform Act of 1995

This rule does not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million in any one year. (2 U.S.C. 1531 *et seq.*)

The requirements of 23 U.S.C. 134 and 135 are supported by Federal funds administered by the FHWA and the FTA. There is a legislatively established local matching requirement for these funds of twenty percent of the total project cost. The FHWA and the FTA believe that the costs of complying with these requirements are predominantly covered by the funds they administer.

#### Executive Order 12988 (Civil Justice Reform)

This action 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.

#### Executive Order 13045 (Protection of Children)

We have analyzed this action 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 concern an environmental risk to health or safety that may disproportionately affect children.

#### Executive Order 12630 (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.

#### Executive Order 13211 (Energy Effects)

We have analyzed this final 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. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

#### Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that this final rule will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

#### Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of every year. The RINs contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### List of Subjects in 23 CFR Part 450

Grant programs—transportation, Highways and roads, Mass transportation, Reporting and recordkeeping requirements.

Issued on: October 2, 2002.

Mary E. Peters,  
*Federal Highway Administrator.*

In consideration of the foregoing, the FHWA amends title 23, Code of Federal Regulations, by amending part 450 as set forth below:

#### PART 450—PLANNING ASSISTANCE AND STANDARDS

1. The authority citation for part 450 continues to read as follows:

**Authority:** 23 U.S.C. 134, 135, 217(g), 315; 42 U.S.C. 7410 *et seq.*; 49 U.S.C. 5303–5306; 49 CFR 1.48(b) and 1.51.

2. Revise § 450.322(a) to read as follows:

##### § 450.322 Metropolitan transportation planning process: Transportation plan.

(a) The metropolitan transportation planning process shall include the development of a transportation plan addressing at least a twenty-year planning horizon. The plan shall include both long-range and short-range strategies/actions that lead to the development of an integrated intermodal transportation system that facilitates the efficient movement of people and goods. The transportation plan shall be reviewed and updated at least triennially in nonattainment and maintenance areas and at least every five years in attainment areas to conform its validity and consistency with current and forecasted

transportation and land use conditions and trends and to extend the forecast period, except that the transportation plan for the New York Metropolitan Transportation Council that was reviewed and updated on September 30, 1999, shall be reviewed and updated no later than September 30, 2005. The transportation plan must be approved by the MPO.

\* \* \* \* \*

[FR Doc. 02–25515 Filed 10–3–02; 11:54 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01–02–114]

RIN 2115–AA97

#### Security Zones; Passenger Vessels, Portland, Maine, Captain of the Port Zone

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing moving and fixed security zones around high capacity passenger vessels, including international ferries, located in the Portland, Maine, Captain of the Port zone. These actions are necessary to ensure public safety and prevent sabotage or terrorist acts against these vessels. Persons and vessels are prohibited from entering these security zones without permission of the Captain of the Port, Portland, Maine.

**DATES:** This rule is effective from September 25, 2002, until December 1, 2002.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Portland, Maine, 103 Commercial Street, Portland, Maine 04101 between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) R. F. Pigeon, Port Operations Department, Marine Safety Office Portland, Maine at (207) 780–3251.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the warnings given by national security and intelligence officials that there is an

increased risk that further subversive or terrorist activity may be launched against the United States, the Homeland Security Advisory System level was upgraded to "high" and the Maritime Security (MARSEC) Level was raised to Level II indicating a heightened threat. As a result, a heightened level of security has been established around all passenger vessels in the Portland, Maine, Captain of the Port zone. These security zones are needed to protect passenger vessels, persons aboard passenger vessels, the public, waterways, ports and adjacent facilities from sabotage or other subversive acts, accidents, or other events of a similar nature taken upon passenger vessels in the Portland, Maine, Captain of the Port zone.

Passenger vessels have already begun their seasonal arrivals in the Portland, Maine, Captain of the Port zone. Any delay in the effective date of this rule, is contrary to the public interest insofar as it may render individuals and facilities within, and adjacent to, passenger vessels vulnerable to subversive activity, sabotage or terrorist attack. The measures contemplated by this rule are intended to prevent future terrorist attacks against individuals and facilities within or adjacent to passenger vessels. Immediate action is required to accomplish these objectives and necessary to continue safeguarding these vessels and the surrounding area.

For the reasons stated in the paragraphs above, under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

#### **Background and Purpose**

On September 11, 2001, terrorists launched attacks on commercial and public structures (airplanes, the World Trade Center in New York and the Pentagon in Arlington, Virginia) killing large numbers of people and damaging properties of national significance. There is an increased risk that further subversive or terrorist activity may be launched against the United States based on warnings given by national security and intelligence officials.

Due to these warnings, on September 10, 2002 the Homeland Security Advisory System level was upgraded to "high" and the Maritime Security (MARSEC) Level was raised to Level II indicating a heightened threat. As a result, a heightened level of security has been established around all passenger vessels in the Portland, Maine, Captain of the Port zone. In addition, the increased tensions in the Middle East have made it prudent for select facilities

and vessels to be on a higher state of alert because terrorist organizations have publicly declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

These heightened security concerns, together with the catastrophic impact that a terrorist attack against a passenger vessel would have to the public interest, make these security zones prudent on the navigable waterways of the United States. Vessels operating near passenger vessels present possible platforms from which individuals may gain unauthorized access to these vessels or launch terrorist attacks upon these vessels. As a result, the Coast Guard is taking measures to prevent vessels or persons from accessing the navigable waters close to passenger vessels in the Portland, Maine, Captain of the Port zone.

#### **Discussion of Rule**

This regulation establishes temporary security zones that will be in effect in the navigable waters within a 100-yard radius around any passenger vessel that is moored, or in the process of mooring, at any berth or anchored within the Portland, Maine, Captain of the Port zone. While underway, the security zone will be 100 yards on each side and astern of the passenger vessel and 200 yards ahead which is needed due to the passenger vessel's speed of advance through the water. To clarify which types of passenger vessels this rule applies to, we have adopted a modified version of the definition in 33 CFR 120.100 for this rule by removing the requirement for "making voyages lasting more than 24 hours" and by increasing the requirement for number of passengers from "authorized to carry more than 12 passengers for hire" to "authorized to carry more than 500 passengers for hire". This change allows for including high capacity cruise ships and international ferries under the definition while excluding smaller vessels.

These security zones are needed to protect passenger vessels, persons aboard passenger vessels, the public, waterways, ports and adjacent facilities from sabotage or other subversive acts, accidents, or other events of a similar nature taken upon passenger vessels in the Portland, Maine, Captain of the Port zone. Entry into these zones will be prohibited unless specifically authorized by the Captain of the Port or his designated representative. Vessels already moored or anchored when these security zones take effect are not required to get underway to avoid either the moving or fixed zones unless specifically ordered to do so by the

Captain of the Port or his designated representative.

The Captain of the Port will enforce these zones and may enlist the aid and cooperation of any Federal, state, county, municipal, or private agency to assist in the enforcement of the regulation. To the extent that each is applicable, this regulation is issued under the authority contained in 33 U.S.C. 1226 and 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; and 49 CFR 1.46.

Any violation of the security zones described herein is punishable by, among others, civil penalties (not to exceed \$25,000 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than \$250,000), in rem liability against the offending vessel and license sanctions.

#### **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 Transportation (DOT) (44 FR 11040, February 26, 1979). These zones will encompass a small portion of the waterway for a limited period of time. There is ample room for vessels to navigate around the security zones and delays, if any, are expected to be minimal. Vessels and persons may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port.

#### **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.

For the same reasons stated in the Regulatory Evaluation section above, 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.

### 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 this rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or operations for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 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. 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

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are establishing a temporary security zone. A “Categorical Exclusion Determination” is available in the docket for inspection or copying 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–114 to read as follows:

#### § 165.T01–114 Security Zones; Passenger Vessels, Portland, Maine, Captain of the Port Zone.

(a) *Definition*. “Passenger vessel” as used in this section means a passenger vessel over 100 gross tons, authorized to carry more than 500 passengers for hire; making voyages of which any part is on the high seas; and for which passengers are embarked or disembarked in the Portland, Maine, Captain of the Port zone as defined in 33 CFR 3.05–15.

(b) *Location*. The following areas are security zones:

(1) All navigable waters within a 100-yard radius around any passenger vessel that is moored, or in the process of mooring, at any berth or anchored within the Portland, Maine, Captain of the Port zone.

(2) All navigable waters of the Portland, Maine, Captain of the Port zone 200-yards ahead, and 100-yards on each side and astern of any passenger vessel that is underway.

(c) *Regulations*. (1) In accordance with the general regulations in § 165.33 of this part, entry into or movement within these zones is prohibited unless previously authorized by the Coast Guard Captain of the Port, Portland, Maine (COTP) or his designated representative. These security zones will not preclude the routine loading and unloading of passengers, vehicles or cargo; or movement of authorized employees and support personnel at any facility or aboard any passenger vessel.

(2) All persons and vessels must comply with the instructions of the COTP or the designated on-scene Coast Guard 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. Emergency response vessels are authorized to move within the zone, but must abide by restrictions imposed by the COTP or his designated representative.

(3) No person may swim upon or below the surface of the water within the boundaries of these security zones unless previously authorized by the COTP or his designated representative.

(d) *Effective period.* This section is effective from September 25, 2002, through December 1, 2002.

Dated: September 25, 2002.

W.W. Briggs,

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

[FR Doc. 02-25405 Filed 10-4-02; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 187-0365a; FRL-7385-3]

### Revisions to the California State Implementation Plan, South Coast Air Quality Management District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns the emission of volatile organic compounds (VOC) from

wastewater systems. We are approving a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on December 6, 2002, without further notice, unless EPA receives adverse comments by November 6, 2002. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rule and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted rule and TSD at the following locations:

Air and Radiation Docket and Information Center (6102T), U.S. Environmental Protection Agency, Room B-102, 1301 Constitution Avenue, NW., Washington DC 20460  
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814  
South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

#### SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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#### I. The State's Submittal

##### A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the date that it was amended by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local Agency	Rule No.	Rule Title	Amended	Submitted
SCAQMD .....	1176	VOC Emissions from Wastewater Systems .....	09/13/96	11/26/96

On February 12, 1997, this submittal was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

#### B. Are There Other Versions of This Rule?

We approved into the SIP on August 25, 1994 (59 FR 43751) a version of SCAQMD Rule 1176, originally adopted on November 3, 1989.

#### C. What Are the Changes in the Submitted Rule?

Rule 1176 changes for refineries are as follows:

- Refineries will be required to either control with monitoring repeat-emitting drain system components (DSC) to 500 ppm VOC or install controls on all DSCs with less monitoring.
- New process drains are required to have DSC controls.

- Monitoring frequencies are decreased for low-emitting and non-emitting DSCs.

Other Rule 1176 changes for all facilities are as follows:

- Bulk loading terminals are excluded.
- Separator forebays, clarifiers, and tanks are included.
- Schematic identification is required for some facilities for certain components with an accompanying list of all DSCs.
- The 500 ppm VOC limit applies to the entire wastewater system, and no openings are allowed in manhole covers.
- A requirement for the inspector to be certified is added.
- Requirements for recordkeeping and reporting are added.
- Certain exemptions are allowed for sources that would emit little or no VOCs.

## II. EPA's Evaluation and Action

### A. How Is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), must not interfere with applicable requirements including requirements concerning attainment (see section 110(l)), and must not relax existing requirements in effect prior to enactment of the 1990 CAA amendments (see section 193). The SCAQMD regulates an extreme ozone nonattainment area. 40 CFR 81.305. Therefore Rule 1176 must fulfill RACT requirements.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following: