

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 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. 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 record keeping 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. Add temporary § 165.T05–018 to read as follows:

#### **165.T05–018—Security Zone: Cape Fear River, Eagle Island and North Carolina State Port Authority Terminal, Wilmington, NC.**

(a) *Location.* The following area is a security zone: The grounds of the North Carolina State Port Authority, Wilmington Terminal and the southern portion of Eagle Island; and an area encompassed from South Wilmington Terminal at 34°10′38.394″ N, 077°57′16.248″ W (Point 1); across Cape Fear River to Southern most entrance of Brunswick River on the West Bank at 34°10′38.052″ N, 077°57′43.143″ W (Point 2); extending along the West bank of the Brunswick River for approximately 750 yards to 34°10′57.062″ N, 077°58′01.342″ W (Point 3); proceeding North across the Brunswick River to the east bank at 34°11′04.846″ N, 077°58′02.861″ W (Point 4) and continuing north on the east bank for approximately 5000 yards along Eagle Island to 34°13′17.815″ N, 077°58′30.671″ W (Point 5); proceeding East to 34°13′19.488″ N, 077°58′24.414″ W (Point 6); and then approximately 1700 yards to 34°13′27.169″ N, 077°57′51.753″ W (Point 7); proceeding East to 34°13′21.226″ N, 077°57′19.264″ W (Point 8); then across Cape Fear River to the Northeast corner of the Colonial Terminal Pier at 34°13′18.724″ N, 077°57′07.401″ W (Point 9), 800 yards South of Cape Fear Memorial Bridge; proceeding South along shoreline (east bank) of Cape Fear River for approximately 500 yards; proceeding east inland to Wilmington State Port property line at 34°13′03.196″ N, 077°56′52.211″ W (Point 10); extending South along Wilmington State Port property line to 34°12′43.409″ N, 077°56′50.815″ W (Point 11); proceeding to the North entrance of Wilmington State Port at 34°12′28.854″ N, 077°57′01.017″ W (Point 12); proceeding South along Wilmington State Port property line to 34°12′20.819″ N, 077°57′08.871″ W (Point 13); continuing South along the Wilmington State Port property line to 34°12′08.164″ N, 077°57′08.530″ W (Point 14); continuing along State Port property to 34°11′44.426″ N, 077°56′55.003″ W (Point 15); proceeding South to the main gate of the Wilmington State Port at 34°11′29.578″ N, 077°56′55.240″ W (Point 16); proceeding South approximately 750 yards to the Southeast property corner of the Apex facility at 34°11′10.936″ N, 077°57′04.798″ W (Point 17); proceeding West to East bank of Cape Fear River at

34°11′11.092″ N, 077°57′17.146″ W (Point 18); and proceeding South along East bank of Cape Fear River to original point of origin at 34°10′38.394″ N, 077°57′16.248″ W (Point 1). (NAD 1983)

(b) *Captain of the Port.* Captain of the Port means the Commanding Officer of the Marine Safety Office Wilmington, NC, or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on her behalf.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in 33 CFR 165.33.

(2) Persons or vessels with a need to enter or get passage within the security zone, must first request authorization from the Captain of the Port. The Captain of the Port’s representative enforcing the zone can be contacted on VHF marine band radio, channel 16. The Captain of the Port can be contacted at (910) 772–2200 or toll free (877) 229–0770.

(3) The operator of any vessel within this security zone must:

(i) Stop the vessel immediately upon being directed to do so by the Captain of the Port or his or her designated representative.

(ii) Proceed as directed by the Captain of the Port or his or her designated representative.

(d) *Effective period.* This section is effective from April 1, 2005, until October 1, 2005.

Dated: March 14, 2005.

**Jane M. Hartley,**

*Captain, U.S. Coast Guard, Captain of the Port, Wilmington, North Carolina.*

[FR Doc. 05–6389 Filed 3–30–05; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[COTP San Francisco Bay 05–003]

RIN 1625–AA00

### Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the navigable waters of the Mission Creek Waterway in China Basin surrounding the construction site of the Fourth Street Bridge, San Francisco, California. This temporary safety zone is necessary to protect persons and vessels

from hazards associated with bridge construction activities. The safety zone temporarily prohibits use of the Mission Creek Waterway surrounding the Fourth Street Bridge during construction unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from 12:01 a.m. on May 4, 2005 to 11:59 p.m. on December 31, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket COTP 05-003 and are available for inspection or copying at the Waterways Branch of the Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Doug Ebberts, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437-3073.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On November 5, 2004, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** (69 FR 64555) proposing to establish a temporary safety zone in the navigable waters of the Mission Creek Waterway in China Basin surrounding the construction site of the Fourth Street Bridge, San Francisco, California. We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

**Penalties for Violating a Safety Zone**

Vessels or persons violating this safety zone will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the safety zone described herein, is punishable by civil penalties (not to exceed \$32,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of \$250,000), and in rem liability against the offending vessel. Any person who violates this section, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years. Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel to the United States, a maximum criminal fine of \$10,000, and imprisonment up to 10 years.

The Captain of the Port will enforce this zone and may enlist the aid and cooperation of any Federal, State, county, or municipal agency to assist in the enforcement of the regulation.

**Background and Purpose**

The San Francisco Department of Public Works requested a temporary closure of the Mission Creek waterway for the purpose of performing significant work to the Fourth Street Bridge. The Fourth Street Bridge was erected across the Mission Creek Waterway at the China Basin in 1917, and was determined eligible for listing in the National Register of Historic Places in 1985 as part of the California Department of Transportation (Caltrans) Historic Bridge Inventory. Caltrans, Division of Structures, evaluated the Fourth Street Bridge and recommended that the bridge be brought up to current seismic safety standards. The three objectives of the rehabilitation project are to: (1) Seismically retrofit the structure while not significantly altering the historical appearance of the bridge; (2) repair the damage to the concrete approaches and several steel and concrete members of the movable span, and (3) reinitiate light rail service across the bridge. The Federal Highway Administration, the State of California and the City of San Francisco are funding the Fourth Street Bridge Retrofit Project.

The first phase of this project included the removal of the lift span, and took place between May 1 and July 28, 2003. During that period, the channel was closed at the Fourth Street Bridge to boating traffic by a temporary final rule that was published in the **Federal Register** on May 13, 2003 (68 FR 25500) and a subsequent change in effective period temporary final rule that was published on July 9, 2003 (68 FR 40772). Those two rules established a safety zone that extended 100 yards on either side of the Fourth Street Bridge. The second phase of the construction project included rebuilding the north and south approaches and the new counterweight and its enclosing pit; but did not require that the waterway be closed to boating traffic.

The safety zone established in this rule is for the last phase of construction, which includes replacing the lift span and aligning the bridge to accept the light rail track system. This final phase is scheduled to begin on May 4, 2005, and end on December 31, 2005. A safety zone of 100 yards on either side of the Fourth Street Bridge is needed during this period to protect boating traffic public from the dangers posed by the construction operations and to allow the

construction operations to be completed.

There are two major environmental issues that affect the scheduling of construction in the channel, namely the annual pacific herring spawning season that runs from December 1st to March 31st, and noise constraints for steelhead from December 1st to June 1st. Any demolition, pile driving and excavation in the water during those time periods will be monitored and restricted for possible impacts on these species.

The Fourth Street Bridge Project is related to the larger Third Street Light Rail Project, and many public presentations on the project's components, channel closure schedules, impacts to surrounding uses and project duration have been made by the City and Port of San Francisco. The Third Street Light Rail Advisory Group was created as a forum to keep the public informed on the progress being made on the Third Street Light Rail Project. Also, this project has been presented at many Mission Bay Citizen Advisory Committee meetings. At these meetings, the public was notified of the project components, impacts and the need to temporarily close the waterway. Specific to the Fourth Street Bridge project, an Environmental Assessment, required by the Federal Highway Administration and Caltrans, (under the National Environmental Protection Act) was conducted by the City of San Francisco. A public hearing regarding the Environmental Assessment was held on January 17, 2002 at San Francisco Arts College, Timken Lecture Hall, 1111 8th Street in San Francisco California, and was well attended.

In addition, the City of San Francisco advised the Coast Guard Captain of the Port in January of 2003 that two channel closures would be necessary in order to accomplish the Fourth Street Bridge project. The Coast Guard met with various City and Port officials to ensure that there would be minimal impacts on area boaters and other involved entities.

**Discussion of Comments and Changes**

We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. The only change incorporated in this Final Rule is a later start date than was indicated in the NPRM. The NPRM indicated that this final phase of construction would commence on February 15, 2005, but due to delays, the construction will not commence until May 4, 2005. The scheduled completion date remains December 31, 2005.

## 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).

Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule is not significant because: (1) Owners of boats located within Mission Creek have been advised of the planned waterway closures at several Mission Bay Citizen Advisory Committee meetings, (2) the San Francisco Department of Public Works and the Port of San Francisco have consulted with the Mission Creek Harbor Association to address the impacts of temporarily closing the channel to local boaters, (3) the Department of Public works has made arrangements to accommodate the requests of owners that have asked to temporarily moor their house boats or pleasure boats at the head of the channel, (4) the channel closure will not impact land access to the houseboats west of the bridge during the waterway closure and (5) the zone is not permanent.

The size of the zone is the minimum necessary to provide adequate protection for the boating public and an adequate distance to ensure vessel wakes to not interfere with construction operations. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing.

## 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. The effect of this rule on small entities is not expected to be significant because: (1) Owners of boats located within Mission Creek have been advised of the planned waterway closures at

several Mission Bay Citizen Advisory Committee meetings, (2) the San Francisco Department of Public Works and the Port of San Francisco have consulted with the Mission Creek Harbor Association to address the impacts of temporarily closing the channel to local boaters, (3) the Department of Public works has made arrangements to accommodate the requests of owners that have asked to temporarily moor their house boats or pleasure boats at the head of the channel, (4) the channel closure will not impact land access to the houseboats west of the bridge during the waterway closure and (5) the zone is not permanent. However, a small number of sailboats that moor in the harbor may be impacted. Small entities and the maritime public will be advised of this safety zone via public notice to mariners.

## Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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 1–800–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 does not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

## Taking of Private Property

This rule does 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 might 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 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 because it establishes a safety zone.

A draft “Environmental Analysis Check List” and a draft “Categorical Exclusion Determination” (CED) 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; 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 May 4, 2005 through December 31, 2005 add § 165.T11–048 to read as follows:

### § 165.T11–048 Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, California.

(a) *Location.* One hundred yards to either water-side of the Fourth Street Bridge, encompassing the navigable waters, from the surface to the sea floor, bounded by two lines; one line drawn from a point on the north shore of Mission Creek [37°46′29″ N, 122°23′36″ W] extending southeast to a point on the opposite shore [37°46′28″ N, 122°23′34″ W], and the other line drawn from a point on the north shore of Mission Creek [37°46′34″ N, 122°23′30″ W] extending southeast to a point on the opposite shore [37°46′33″ N, 122°23′28″ W] [Datum: NAD 83].

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

(c) *Effective Period.* The safety zone will be in effect from 12:01 a.m. on May 4, 2005 to 11:59 p.m. on December 31, 2005. If the need for this safety zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of the safety zone and will announce that fact via Broadcast Notice to Mariners.

(d) *Enforcement.* The Captain of the Port will enforce this zone and may enlist the aid and cooperation of any Federal, State, county, or municipal agency to assist in the enforcement of the regulation. All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, or the designated on-scene patrol personnel. Patrol personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, Federal, State, and local law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: March 23, 2005.

**Gordon A. Loeb,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, San Francisco Bay, California.*

[FR Doc. 05–6390 Filed 3–30–05; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03–OAR–2005–PA–0008; FRL–7893–7]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Eleven Individual Sources

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for eleven major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>). These sources are located in Pennsylvania. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on May 31, 2005 without further notice, unless EPA receives adverse written comment by May 2, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2005–PA–0008 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://www.docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

D. Mail: R03–OAR–2005–PA–0008, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.