

Executive Order 12866, "Regulatory Planning and Review"

The Director of Administration and Management, Office of the Secretary of Defense, hereby determines that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect on the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 701

Privacy.

Accordingly, 32 CFR part 701 is proposed to be amended to read as follows:

PART 701—[AMENDED]

1. The authority citation for 32 CFR part 701, Subpart G continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 701.118 is amended by revising paragraph (h) to read as follows:

§ 701.118 Exemptions for specific Navy record systems.

* * * * *

(h) *System identifier and name:* N12410-2, NCIS Training Academy Records.

(1) *Exemption:* (i) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal or military service, if the disclosure would compromise the objectivity or fairness of the test or examination process may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process. Therefore, information within this system of records may be exempt pursuant to 5 U.S.C. 552a, subsection (d).

(ii) Portions of this system of records are exempt from the following subsection of the Privacy Act: (d).

(2) *Authority:* 5 U.S.C. 552a(k)(6).

(3) *Reason:* From subsection (d) because this system relates to testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the NCIS test and evaluation system.

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Dated: February 18, 2005.

Jeannette Owings-Ballard,

*OSD Federal Register Liaison Officer,
Department of Defense.*

[FR Doc. 05-3670 Filed 2-25-05; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[COTP Corpus Christi-04-006]

RIN 1625-AA87

Security Zones; Port of Port Lavaca-Point Comfort, Point Comfort, TX and Port of Corpus Christi Inner Harbor, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to remove an established security zone in the port of Port Lavaca-Point Comfort. Under the Maritime Transportation Security Act of 2002, owners or operators of local facilities are required to take specific action to improve facility security. As such, a security zone around local facilities will no longer be necessary under normal conditions. This proposed rule would remove an established security zone.

DATES: Comments and related material must reach the Coast Guard on or before March 28, 2005.

ADDRESSES: You may mail comments and related material to Marine Safety Office Corpus Christi, 555 N. Carancahua, Suite 500, Corpus Christi, TX 78478. Marine Safety Office Corpus Christi 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 Marine Safety Office Corpus Christi, 555 N. Carancahua, Suite 500, Corpus Christi, TX 78478, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade (LTJG) Jay Michalczak, Marine Safety Office Corpus Christi, at (361) 888-3162, ext. 313.

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 [COTP Corpus Christi-04-006], 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 plan to hold a public meeting. However, you may submit a request for a meeting by writing to Marine Safety Office Corpus Christi, 555 N. Carancahua, Suite 500, Corpus Christi, TX 78478 explaining why one would be beneficial. If we determine that a public meeting 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 October 17, 2002, the Coast Guard published a final rule entitled "Security Zones; Port of Port Lavaca-Point Comfort, Point Comfort, TX and Port of Corpus Christi Inner Harbor, Corpus Christi, TX", in the **Federal Register** (67 FR 64046). That final rule established two security zones that appear in 33 CFR 165.809. The first security zone was entitled "Port of Port Lavaca-Point Comfort" and included all waters between the Dredge Island Bridge at 28°39'30" N, 96°34'20" W and a line drawn between points 28°38'10" N, 96°33'15" W and 28°38'10" N, 96°34'45" W, including the Point Comfort turning basin and adjacent Alcoa Channel. The second security zone was entitled "Port of Corpus Christi Inner Harbor and included all waters of the Corpus Christi Inner Harbor from the Inner Harbor Bridge (U.S. Hwy 181) to, and including the Viola Turning Basin.

Under the authority of the Maritime Transportation Security Act of 2002, the Coast Guard published a final rule on October 22, 2003, entitled "Facility Security" in the **Federal Register** (68 FR 60515) that established 33 CFR part 105. That final rule became effective November 21, 2003, and provides security measures for certain facilities, including those facilities that exist on waterways in the Port of Port Lavaca-Point Comfort area. Section 105.200 of 33 CFR requires owners or operators of these facilities to designate security

officers for facilities, develop security plans based on security assessments and surveys, implements security measures specific to the facility's operations, and comply with requirements based on an increase in Maritime Security Levels. Under 33 CFR 105.115, the owners or operators of these facilities must have submitted to the Captain of the Port, by December 31, 2003, and for certain facilities impacted by 33 CFR 105.115(c), by December 16, 2004, a Facility Security Plan as described in subpart D of 33 CFR part 105, or if intending to operate under an approved Alternative Security Program as described in 33 CFR 101.130, a letter signed by the facility owner or operator stating which approved Alternative Security Program the owner or operator intends to use. Section 105.115 of 33 CFR part 105 also requires facility owners or operators to be in compliance with 33 CFR 105 on or before July 1, 2004, or for those facilities subject to 33 CFR 105.115(c), on or before March 16, 2005.

As a result of these enhanced security measures, the security zone for the Port of Port Lavaca-Point Comfort will no longer be necessary under normal conditions. This determination was also based upon a risk assessment conducted for the Port of Port Lavaca-Point Comfort by the Coast Guard.

Unlike the Port of Port Lavaca-Point Comfort, a security zone continues to be needed for the Port of Corpus Christi Inner Harbor. This determination was based upon the high volume of vessel traffic in the Port of Corpus Christi as well as a risk assessment conducted by the Coast Guard.

Discussion of Proposed Rule

This proposed rule would amend 33 CFR 165.809 to remove the Port of Port Lavaca-Point Comfort security zone listed in paragraph (a)(1) of that section. No other substantive amendments to 33 CFR 168.809 would occur.

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of

DHS is unnecessary as this proposed rule removes a portion of a regulation that is no longer necessary.

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.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want 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 proposed rule would affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Junior Grade Jay Michalczak, Waterway Management Section, Marine Safety Office Corpus Christi, at (361) 888-3162 Ext 313. 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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A proposed 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed 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 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 proposed rule is not an economically significant rule and will 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 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 M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph 34(g), of the Instruction, from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in NEPA.

Under figure 2–1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

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. In § 165.809, revise the section heading and paragraph (a) to read as follows:

§ 165.809 Security Zone; Port of Corpus Christi Inner Harbor, Corpus Christi, TX.

(a) *Location.* The following area is designated as a security zone: all waters of the Corpus Christi Inner Harbor from the Inner Harbor Bridge (U.S. Hwy 181) to, and including the Viola Turning Basin.

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Dated: February 11, 2005.

K.C. Kiefer,

Commander, U.S. Coast Guard, Captain of the Port Corpus Christi, Acting.

[FR Doc. 05–3605 Filed 2–24–05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[R01–OAR–2004–CT–0004; A–1–FRL–7877–7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Connecticut; Plan for Controlling Emissions From Existing Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the sections 111(d)/129 State Plan submitted by the Connecticut Department of Environmental Protection (DEP) on September 16, 2004. This State Plan is for carrying out and enforcing provisions that are at least as protective as the Emissions Guidelines (EG) applicable to certain existing Municipal Waste Combustors (MWCs) in accordance with sections 111 and 129 of the Clean Air Act. The Connecticut DEP submitted the Plan to satisfy certain Federal Clean Air Act requirements.

DATES: EPA must receive written comments on this proposed rule March 28, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R01–OAR–2004–CT–0004 by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA's