

3. In appendix C to part 4022, Rate Set 102, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments**

\* \* \* \* \*

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
*	*	*	*	*	*	*	*	*
102 .....	4-1-02 ...	5-1-02 ...	4.25	4.00	4.00	4.00	7	8

**PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS**

4. The authority citation for part 4044 continues to read as follows:

**Authority:** 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix B to Part 4044—Interest Rates Used to Value Benefits**

\* \* \* \* \*

For valuation dates occurring in the month—			The values of $i_t$ are:					
			$i_t$	for t=	$i_t$	for t=	$i_t$	for t=
*	*	*	*	*	*	*	*	*
April 2002 .....			.0550	1-25	.0425	>25	N/A	N/A

Issued in Washington, DC, on this 12th day of March, 2002.

**Steven A. Kandarian,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 02-6427 Filed 3-14-02; 8:45 am]

**BILLING CODE 7708-01-P**

**DEPARTMENT OF THE TREASURY**

**Fiscal Service**

**31 CFR Part 203**

**RIN 1510-AA79**

**Payment of Federal Taxes and the Treasury Tax and Loan Program**

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury (Treasury) is amending the regulation governing the Treasury Tax and Loan (TT&L) program, to provide the Secretary greater flexibility to adjust the rate of interest we charge on funds loaned through the existing TT&L investment option. In addition, Treasury is making regulatory changes that will allow us to test the feasibility of a new investment option known as the term investment option. The term investment option would provide financial

institutions participating in the TT&L investment program with another option for borrowing Treasury funds. Under the term investment option, Treasury may invest excess balances with TT&L participants at a market based rate of interest for a predetermined period of time.

**DATES:** This final rule is effective April 15, 2002.

**ADDRESSES:** You can download this final rule at the following web site: <http://www.fms.treas.gov/eftps>. You may also inspect and copy this final rule at: Treasury Department Library, Freedom of Information Act (FOIA) Collection, Room 1428, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, DC 20220. Before visiting, you must call (202) 622-0990 for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Walt Henderson, Senior Financial Program Specialist, at (202) 874-6705 or [walt.henderson@fms.treas.gov](mailto:walt.henderson@fms.treas.gov); Ellen Neubauer, Senior Attorney, at (202) 874-6680 or [ellen.neubauer@fms.treas.gov](mailto:ellen.neubauer@fms.treas.gov); or John Galligan, Director, Cash Management Policy and Planning Division, at (202) 874-6590 or [john.galligan@fms.treas.gov](mailto:john.galligan@fms.treas.gov).

**SUPPLEMENTARY INFORMATION:**

**Background on the Treasury Tax and Loan Program**

The Treasury Tax and Loan (TT&L) program, 31 CFR part 203 (part 203), encompasses two separate components—a depositary component through which we collect Federal tax deposits and payments from business taxpayers for employee withholding and other types of taxes, and an investment component through which we invest short-term operating balances not needed for immediate cash outlays.

Through the TT&L depositary component, which comprises nearly 10,000 commercial financial institutions and Federal Reserve Banks (FRBs), we collected over \$1.6 trillion in Fiscal Year 2001, representing approximately 80 percent of the total Federal annual tax receipts, from approximately 5 million business taxpayers.

Nearly 1,400 of the TT&L depositaries borrow excess short-term Treasury operating funds by participating in the investment component of the TT&L program. Through agreements executed under this Part, participating depositaries borrow Treasury funds in the form of a note secured with collateral pledged to Treasury and pay interest to the Treasury on these balances. In Fiscal Year 2001, we earned nearly \$1 billion in interest income through the TT&L investment component.

The Secretary is required to consider the prevailing market in prescribing the rate of interest. (31 U.S.C. 323) In 1978 when the interest rate formula was implemented, the overnight repurchase agreement market was not mature and a published rate was not available. Thus, the TT&L rate was set as an approximation of an overnight repurchase agreement rate. At that time, it was generally believed that the Federal funds rate averaged twenty-five basis points above the volume-weighted average interest rate from overnight repurchase agreements secured by Treasury securities and select Agency securities, and executed by the Federal Reserve Bank of New York for its monetary operations. Historically, the overnight repurchase agreement rate and the Federal funds rate generally have moved broadly in tandem.

On July 30, 1999, we published in the **Federal Register** a notice of proposed rulemaking (NPRM) at 64 FR 41748. The NPRM proposed a change to the interest rate we charge on funds loaned through the TT&L program, including funds loaned through the direct investment and special direct investment programs, from the Federal funds rate less twenty-five basis points to an overnight repurchase agreement rate. The closing date for submission of comments was September 28, 1999. Copies of the comments are available on the Financial Management Service's (FMS) web site at <http://www.fms.treas.gov/eftps>. Based on the comments we received, we have reconsidered that change. Instead, we are amending Part 203 to allow the Secretary the flexibility to adjust the rate of interest, taking into consideration prevailing market conditions.

The NPRM also sought comment on the extent to which TT&L participants were interested in obtaining TT&L funds for a predetermined period of time. Given the level of interest expressed for this concept, Treasury is considering offering an investment option which incorporates a term feature. Amending Part 203 will enable us to proceed with the design and testing of this option. The new TT&L investment option under consideration is called the term investment option and will be designed so that the Treasury may earn a market based rate of return on investments with a fixed term. The term investment option will provide an additional investment option for current TT&L participants and may also increase participation in the TT&L program. Treasury expects that the rate of interest earned on term investments will reflect a market rate of return for similar funds.

At a later date, Treasury will also be publishing an NPRM for Part 203 to

reflect terminology changes brought about by the October 2000 implementation of the Treasury Investment Program (TIP), the component of the TT&L program that receives tax collections, invests funds, and monitors collateral pledged to secure invested funds and public money.

#### Comments on the Proposed Rule

By the close of the comment period on September 28, 1999, we received comment letters on the NPRM from 56 financial institutions and 3 industry trade associations. Following is a discussion of the issues:

##### *Reaction to a Change in the Treasury Tax and Loan Rate of Interest*

All of the commenting financial institutions and one industry trade association opposed the change in the TT&L rate of interest proposed in the NPRM. All commenting financial institutions stated that the proposed rate change (from the Federal funds rate less twenty-five basis points to a rate based on the overnight repurchase agreement rate) would decrease the level of participation in the TT&L program. Several financial institutions, including the largest TT&L investment program participants, commented that the proposed TT&L rate of interest did not take into account certain characteristics of the program such as Treasury's ability to place or call funds with little or no notice and prescribed collateral requirements, both of which should be factored into the rate. Also, many commenting financial institutions expressed concerns about the source and availability of the overnight repurchase agreement rate and the lack of historical data associated with this rate.

##### *Adjusting the TT&L Rate of Interest*

We agree with the respondents that a TT&L rate based on the overnight repurchase agreement rate does not adequately take into consideration the embedded option to place or call funds with little or no advance notice, nor the administrative costs associated with posting and transferring TT&L collateral. Thus, the proposed rate does not meet our goal of establishing a rate reflective of the prevailing market for a transaction with characteristics economically similar to the TT&L investment program. We have therefore deleted those provisions of the NPRM that would change the TT&L rate of interest to an overnight repurchase rate.

Nevertheless, we have determined that the best way to ensure that the Treasury continues to earn the

prevailing market rate of return is to periodically review the TT&L rate of interest and make any necessary adjustments as market conditions dictate. The final rule therefore allows the Secretary to periodically adjust the rate taking into consideration the prevailing market for a transaction with characteristics similar to the TT&L investment program. This will provide Treasury greater flexibility in earning a market based rate of return on investments. The rate will be established through *TT&L Special Notices to Depositaries* and will be published in the **Federal Register** and on the FMS web site. A *TT&L Special Notice to Depositaries* is included herein establishing the TT&L rate of interest as the Federal funds rate less twenty-five basis points.

##### *Obtaining Funds for a Predetermined Period of Time*

The NPRM sought comment on the extent to which TT&L participants were interested in obtaining TT&L funds for a predetermined period of time. The majority of commenters noted that the call feature associated with TT&L funds made participation in the program less desirable for financial institutions. Of the 15 commenters who specifically commented on their interest in obtaining TT&L funds for a predetermined period of time, 11 expressed some interest in the concept. In further discussions with financial institutions regarding the benefits of holding funds for a predetermined period of time, financial institutions again generally reacted favorably to the concept. Based upon these comments, we are considering a new investment component of TT&L, referred to as the term investment option.

##### *Description of the Term Investment Option*

The term investment option would provide Treasury with an option to invest excess operating funds with participating financial institutions for a predetermined period of time. This option is in the early stages of development and we anticipate that it will be offered initially on a pilot basis. Under this option, Treasury will determine the rate of interest taking into consideration the prevailing market and will either establish a predetermined rate based on a benchmark or establish the rate of interest based on the results of a bidding process. The term investment option may be offered by the Treasury at any time there are excess operating funds, providing an additional cash management tool for placing excess funds. The addition of this option may

also expand the total capacity within the TT&L program by providing an additional investment option for financial institutions, and may encourage greater participation. This rule is being amended to give us the flexibility to offer this option on a pilot basis and, after evaluating the pilot, on an ongoing basis if warranted. Additional details regarding the term investment option will be published in procedural instructions provided to financial institutions.

## Summary of Changes

### Definitions

**Main note balance**—the phrase main note balance has been added to section 203.2 of the final rule to describe the existing open-ended note balance maintained by financial institutions currently participating in the TT&L investment program. This phrase has been added as a means of differentiating between the existing open-ended note balance and the new *term note balance*. The phrase main note balance is used in §§ 203.3; 203.13; 203.19; 203.21; and 203.23 as necessary to clarify that certain features of the existing investment program, such as how funds move in and out of the main note balance, are not applicable to the new term investment option. The features of the existing investment program are unchanged. Where the phrase note balance is used, it is intended to refer to both the main note balance and the term note balance as, for example, in § 203.24 (g).

**Term investment option**—the phrase *term investment option* has been added to § 203.2 of the final rule to describe the new investment option introduced in this rule. Through the term investment option, financial institutions will have the ability to hold excess Treasury operating funds for a predetermined period of time. Section 203.23 (f) describes the features of this option.

**Term note balance**—the phrase *term note balance* has been added to § 203.2 of the final rule to describe the note balance maintained by financial institutions participating in the term investment option.

**Treasury Tax and Loan rate of interest**—the definition of Treasury Tax and Loan (TT&L) rate of interest has been changed in § 203.2 of the final rule to clarify that the phrase TT&L rate of interest refers only to the rate of interest charged on the main note balance. The phrase TT&L rate of interest does not describe the rate of interest charged on the term note balance which is addressed in § 203.23. The definition of

the TT&L rate of interest has also been changed to give the Secretary greater flexibility to change the TT&L rate of interest when market conditions warrant.

**Collateral requirements.** Section 203.24 (b) describes the collateral requirements for the term note balance. Financial institutions participating in the term investment option will be required to pledge collateral sufficient to cover the total term note balance prior to the time the term investment is placed. Collateral will be pledged in the same manner as collateral for the main note balance, although specific collateral requirements may differ. As with main note balances, types and valuations of acceptable collateral for the term note balance will be published on the Bureau of the Public Debt's web site at [www.publicdebt.treas.gov](http://www.publicdebt.treas.gov).

### TT&L Special Notice to Depositories

This is notice to Treasury Tax and Loan (TT&L) depositories regarding the rate of interest the Department of the Treasury charges on TT&L main note balances, including funds invested through the direct investment and special direct investment programs. Effective April 15, 2002, the TT&L rate of interest is the Federal funds rate published weekly by the Board of Governors of the Federal Reserve System less twenty-five basis points.

### Executive Order 12866

This final rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

### Regulatory Flexibility Act Analysis

It is herein certified that this final rule will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that this final rule does not require any actions on the part of or impose any new requirements on small entities. Accordingly, a regulatory flexibility analysis is not required.

### List of Subjects in 31 CFR Part 203

Banks, Banking, Electronic fund transfers, Taxes.

### Authority and Issuance

For the reasons set out in the preamble, 31 CFR part 203 is amended as follows:

## PART 203—PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM

1. The authority citation for part 203 continues to read as follows:

**Authority:** 12 U.S.C. 90, 265–266, 332, 391, 1452(d), 1464(k), 1767, 1789a, 2013, 2122, and 3102; 26 U.S.C. 6302; 31 U.S.C. 321, 323 and 3301–3304.

2. Amend § 203.2 by revising paragraph (g); redesignating paragraphs (w) through (dd) and (ee) through (kk) as paragraphs (x) through (ee) and (hh) through (nn), respectively; adding new paragraph (w); revising newly redesignated paragraphs (x) and (dd); adding new paragraphs (ff) and (gg); and revising newly redesignated paragraph (nn) to read as follows:

### § 203.2 Definitions.

\* \* \* \* \*

(g) *Direct investment* means placement of Treasury funds with a depository and a corresponding increase in a depository's main note balance.

\* \* \* \* \*

(w) *Main note balance* means an open-ended interest-bearing note balance maintained at the FRB of the district.

(x) *Note option* means that program available to a TT&L depository under which Treasury invests in obligations of the depository. The amount of such investments will be evidenced by interest-bearing note balances maintained at the FRB of the district.

\* \* \* \* \*

(dd) *Special direct investment* means the placement of Treasury funds with a depository and a corresponding increase in a depository's main note balance, where the investment specifically is identified as a "special direct investment" and may be secured by collateral retained in the possession of the depository pursuant to the terms of § 203.24(c)(2)(i).

\* \* \* \* \*

(ff) *Term investment option* means the program available to financial institutions that offers the ability to borrow excess Treasury operating funds for a predetermined period of time.

(gg) *Term note balance* means an interest-bearing note balance maintained at the FRB of the district for a predetermined period of time.

\* \* \* \* \*

(nn) *Treasury Tax and Loan (TT&L) rate of interest* means the interest charged on the main note balance. The TT&L rate of interest is the rate prescribed by the Secretary taking into

consideration prevailing market interest rates. The rate and any rate changes will be announced through a *TT&L Special Notice to Depositories* and will be published in the **Federal Register** and on a web site maintained by Treasury's Financial Management Service at <http://www.fms.treas.gov>.

3. Amend § 203.3 to revise paragraph (c) to read as follows:

**§ 203.3 Financial institution eligibility for designation as a Treasury Tax and Loan depository.**

(c) In order to be designated as a TT&L depository for the purposes of processing tax deposits in the FTD system, a financial institution shall possess under its charter either general or specific authority permitting the maintenance of the TT&L account, the balance of which is payable on demand without previous notice of intended withdrawal. In addition, note option depositories shall possess either general or specific authority permitting the maintenance of a note balance. In the case of note option depositories maintaining main note balances, the authority shall permit the maintenance of a main note balance which is payable on demand without previous notice of intended withdrawal.

4. Amend § 203.13 to revise paragraphs (b), (c)(1), and (d) (1) to read as follows:

**§ 203.13 Same-day reporting and payment mechanisms.**

(b) *Fedwire value transfer*. To initiate a Fedwire value tax payment, the financial institution shall be a Fedwire participant and shall comply with the FRB's Fedwire format for tax payments. The taxpayer's financial institution shall provide the taxpayer, upon request, the IMAD and the ETA reference numbers for a Fedwire value transfer. The financial institution may obtain the ETA reference number for Fedwire value transfers from its FRB by supplying the related IMAD number. Fedwire value transfers settle immediately to the TGA and thus are not credited to a depository's main note balance.

(c) \* \* \*

(1) For a note option depository using a Fedwire non-value transaction, the tax payment amount will be credited to the depository's main note balance on the day of the transaction.

\* \* \* \* \*

(d) \* \* \*

(1) For a note option depository using a Direct Access transaction, the tax payment amount will be credited to the

depository's main note balance on the day of the transaction.

\* \* \* \* \*

5. Revise § 203.19 to read as follows:

**§ 203.19 Note option.**

(a) *Late delivery of advices of credit*. If an advice of credit does not arrive at the FRB before the designated cutoff hour for receipt of such advices, the FRB will post the funds to the main note balance as of the next business day after the date on the advice of credit. This is the date on which funds will begin to earn interest for Treasury.

(b) *Transfer of funds from TT&L account to the main note balance*. For a depository selecting the note option, funds equivalent to the amount of deposits credited by a depository to the TT&L account shall be withdrawn by the depository and credited to the main note balance on the business day following the receipt of the tax payment.

6. Revise § 203.21 to read as follows:

**§ 203.21 Scope of the subpart.**

This subpart provides rules for TT&L depositories on crediting main note balances under the various payment methods; debiting main note balances; maintaining term note balances; and pledging collateral security.

7. Amend section 203.22 to remove "and" at the end of paragraph (b), revise paragraph (c) and add paragraph (d) to read as follows:

**§ 203.22 Sources of balances.**

\* \* \* \* \*

(c) Direct investments and special direct investments pursuant to subpart D of this part; and

(d) Other excess Treasury operating funds.

8. Amend § 203.23 by revising paragraphs (a)(1), (a)(2), (c), (d), and (e); and adding paragraph (f) to read as follows:

**§ 203.23 Note balance.**

(a) \* \* \*

(1) *FTD system*. A depository processing tax deposits using the FTD system and electing the note option shall debit the TT&L account and credit its main note balance as stated in § 203.19(b).

(2) *EFTPS*—(i) *ACH debit and ACH credit*. A note option depository processing EFTPS ACH debit entries and/or ACH credit entries shall credit its main note balance for the value of the transactions on the date that an exchange of funds is reflected on the books of the Federal Reserve Bank of the district. Financial institutions may refer to the procedural instructions for

information on how to ascertain the amount of the credit to the main note balance.

(ii) *Fedwire non-value and Direct Access*. A note option depository processing Fedwire non-value and/or Direct Access transactions pursuant to subpart B of this part shall credit its main note balance and debit its customer's account for the value of the transactions on the date ETA receives and processes the transactions.

\* \* \* \* \*

(c) *Main note balance withdrawals*. The amount of the main note balance shall be payable on demand without prior notice. Calls for payment on the note will be by direction of the Secretary through the FRBs. On behalf of Treasury, the FRB shall charge the reserve account of the depository or the depository's designated correspondent on the day specified in the call for payment.

(d) *Interest*. A main note balance shall bear interest at the TT&L rate. Such interest is payable by a charge to the Federal Reserve account of the depository or its designated correspondent in the manner prescribed in the procedural instructions.

(e) *Maximum balance*—(1) *Note option depositories*. A depository selecting the note option shall establish a maximum for its main note balance by providing notice to that effect in writing to the FRB of the district. The maximum balance is the amount of funds for which a main note option depository is willing to provide collateral in accordance with § 203.24(c)(1). The depository shall provide the advance notice required in the procedural instructions before reducing the established maximum balance unless it is a reduction resulting from a collateral re-evaluation as determined by the depository's FRB. That portion of any advice of credit or EFTPS tax payment, which, when posted at the FRB, would cause the main note balance to exceed the maximum balance amount specified by the depository, will be withdrawn by the FRB that day.

(2) *Direct investment depositories*. A main note option depository that participates in direct investment shall set a maximum for its main note balance for direct investment purposes which is higher than its peak balance normally generated by the depository's advices of credit and EFTPS tax payment inflow. The direct investment note option depository shall provide the advance notice required in the procedural instructions before reducing the established maximum balance.

(3) *Special direct investment depositories*. Special direct investments,

when credited to the main note balance, shall not be considered in setting the amount of the maximum balance or in determining the amounts to be withdrawn where a depository's maximum balance is exceeded.

(f) *Term investment option.* Treasury may, from time to time, invest excess operating funds in obligations of depositories selecting the term investment option. Such obligations shall be in the form of interest-bearing notes payable upon a predetermined period of time not to exceed 90 days. Such notes shall bear interest at a rate prescribed by the Secretary by auction or otherwise taking into consideration prevailing market interest rates.

9. Amend § 203.24 to revise paragraph (a); redesignate paragraphs (b) through (f) as paragraphs (c) through (g), respectively; add a new paragraph (b); and revise newly redesignated paragraph (d)(1) to read as follows:

**§ 203.24 Collateral security requirements.**

\* \* \* \* \*

(a) *Note option—main note balance—*  
(1) *FTD deposits and EFTPS tax payments.* A depository shall pledge collateral security in accordance with the requirements of paragraphs (d)(1), (e), and (f) of this section in an amount that is sufficient to cover the pre-established maximum balance for the main note balance, and, if applicable, the closing balance in the TT&L account which exceeds recognized insurance coverage. Depositories shall pledge collateral for the full amount of the maximum balance at the time the maximum balance is established. If the depository maintains a TT&L account, the depository shall pledge collateral security before crediting deposits to the TT&L account.

(2) *Direct investments.* A note option depository that participates in direct investment is not required to pledge collateral continuously in the amount of the pre-established maximum balance. However, each note option depository participating in direct investment shall pledge, no later than the day the direct investment is placed, the additional collateral in accordance with paragraphs (d)(1), (e), and (f) of this section to cover the total main note balance including those funds received through direct investment. If a direct investment depository has a history of frequent collateral deficiencies, it shall fully collateralize its maximum balance at all times.

(3) *Special direct investments.* Before special direct investments are credited to a depository's main note balance, the note option depository shall pledge collateral security, in accordance with

the requirements of paragraphs (d)(2) and (f) of this section, to cover 100 percent of the amount of the special direct investments to be received.

(b) *Note option—term note balance.* Each note option depository participating in the term investment program shall pledge, prior to the time the term investment is placed, collateral in accordance with paragraphs (d) (1), (e), and (f) of this section sufficient to cover the total term note balance.

\* \* \* \* \*

(d) *Deposits of securities.* (1) Collateral security required under paragraphs (a)(1), (2), (b), and (c) of this section shall be deposited with the FRB of the district, or, where appropriate, with a custodian or custodians within the United States designated by the FRB, under terms and conditions prescribed by the FRB.

\* \* \* \* \*

Dated: October 26, 2001.

**Kenneth R. Papaj,**

*Acting Commissioner.*

[FR Doc. 02-5918 Filed 3-14-02; 8:45 am]

**BILLING CODE 4810-35-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-01-162]

**RIN 2115-AA97, 2115-AA97, and 2115-AA98**

#### **Anchorage, Regulated Navigation Areas, Safety and Security Zones; Boston Marine Inspection Zone and Captain of the Port Zone**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is revising a temporary final rule (§ 165.T01-171) published September 27, 2001. This change will extend the effective period for four temporary safety and security zones in this rule until June 30, 2002, allowing us adequate time to conduct a rulemaking to make these four safety and security zones permanent. The anchorage area restrictions (§ 110.T01-162) and regulated navigation areas (§ 165.T01-162) created by the rule published September 27, 2001 will expire as provided in that rule on March 16, 2002.

**DATES:** Section 165.T01-171 is revised effective March 15, 2002 and will remain effective until June 30, 2002.

**ADDRESSES:** MSO Boston 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 MSO Boston between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Dave Sherry, Maritime Security Operations, MSO Boston, at 617-223-3030.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

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. On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts and flown into the World Trade Center in New York, New York inflicting catastrophic human casualties and property damage. A similar attack was conducted on the Pentagon with a plane launched from Newark, NJ on the same day. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated.

For these same reasons, 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**. This rulemaking is urgently required to prevent future terrorist strikes within and adjacent to waters within the areas protected by these safety and security zones. The delay inherent in the NPRM process is contrary to the public interest insofar as it may render individuals, vessels and facilities within and adjacent area vulnerable to subversive activity, sabotage or terrorist attack.

##### **Background and Purpose**

On September 27, 2001, we published a temporary final rule creating anchorage area restrictions, three regulated navigation areas and five safety and security zones in the Boston Marine Inspection Zone and Captain of the Port Zone. (66 FR 49280). One of the safety and security zones, § 165.T01-171 (a)(4), for Pilgrim Nuclear Power Plant has been removed by a different temporary final rule (67 FR 1607, January 14, 2002), which was followed by an NRPM for a permanent rule (67 FR 4218, January 29, 2002).

We have determined that the anchorage area restrictions and three regulated navigation areas will not be