

We think that the conformed definitions promote efficiency by conforming the treatment of security futures under the statutes and our rules. We do not expect the amendments to have any anti-competitive effects. We solicit comment on these matters with respect to the amended rules. Will the amendments have an adverse effect on competition that is neither necessary nor appropriate in furtherance of the purposes of the Securities Act or the Exchange Act?

## V. Cost-Benefit Analysis

The amendments we are adopting conform Rule 405 and Rule 3a11-1 to the revisions in the Securities Act and the Exchange Act, with respect to security futures. They do not alter the treatment of security futures under the Securities Act or the Exchange Act, or effect any change in the requirements imposed by the federal securities laws as they relate to security futures. The CFMA established the statutory framework for the treatment of security futures under the federal securities laws and the statutory amendments are self-effectuating. We do not believe that the amendments will have any effect on public companies or small entities. Any effect is the result of the CFMA amendments to both statutes. We request comment on whether the amendments would impose any additional burdens or costs on public companies or small entities outside of the costs or burdens imposed by the CFMA.

## VI. Paperwork Reduction Act

Securities Act Rule 405 and Exchange Act Rule 3a11-1 do not contain a "collection of information" requirement within the meaning of the Paperwork Reduction Act of 1995 ("PRA").<sup>25</sup> We are amending Rule 405 and Rule 3a11-1 to include security futures in the definition of "equity security." The CFMA amended Exchange Act Section 16 to state that the section applies to ownership of, and transactions in, security futures products. The Exchange Act rules under Section 16 impose information collection requirements; however, the new requirements under Section 16 were prescribed by the CFMA and would be the same without the amendment to Rule 3a11-1. We therefore are not required to submit the amendments to the Office of Management and Budget for approval under the PRA.

## VII. Statutory Basis, Text of Rule and Authority

The amendment to the Commission's rule is being adopted pursuant to Sections 6, 7, 10 and 19(a) of the Securities Act and Sections 3(b) and 23(a) of the Exchange Act.

### List of Subjects in 17 CFR Parts 230 and 240

Securities, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Securities and Exchange Commission amends Title 17, Chapter II of the Code of Federal Regulations as follows:

### PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The general authority citation for Part 230 is revised to read as follows:

**Authority:** 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77sss, 77z-3, 78c, 78d, 78l, 78m, 78n, 78o, 78t, 78w, 78ll(d), 78mm, 79t, 80a-8, 80a-24, 80a-28, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

\* \* \* \* \*

2. In § 230.405 the term "equity security" is revised to read as follows:

#### § 230.405. Definitions of terms.

\* \* \* \* \*

**Equity security.** The term *equity security* means any stock or similar security, certificate of interest or participation in any profit sharing agreement, preorganization certificate or subscription, transferable share, voting trust certificate or certificate of deposit for an equity security, limited partnership interest, interest in a joint venture, or certificate of interest in a business trust; any security future on any such security; or any security convertible, with or without consideration into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any put, call, straddle, or other option or privilege of buying such a security from or selling such a security to another without being bound to do so.

\* \* \* \* \*

### PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for Part 240 continues to read in part as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 79q,

79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

\* \* \* \* \*

4. The undesignated section heading, "Definition of 'Equity Security' As Used in Sections 12(g) and 16" preceding § 240.3a4-1 is removed and added to immediately precede § 240.3a11-1.

5. Section 240.3a11-1 is revised to read as follows:

#### § 240.3a11-1. Definition of the term "equity security."

The term *equity security* is hereby defined to include any stock or similar security, certificate of interest or participation in any profit sharing agreement, preorganization certificate or subscription, transferable share, voting trust certificate or certificate of deposit for an equity security, limited partnership interest, interest in a joint venture, or certificate of interest in a business trust; any security future on any such security; or any security convertible, with or without consideration into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any put, call, straddle, or other option or privilege of buying such a security from or selling such a security to another without being bound to do so.

Dated: April 17, 2002.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-01-136]

RIN 2115-AA97

#### Security Zone; Lake Erie, Toledo, OH

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule; correction.

**SUMMARY:** The Coast Guard published a temporary final rule on October 12, 2001, creating a security zone surrounding the waters off of Davis Besse Nuclear Power Plant near Toledo, Ohio. The original parameters of that zone blocked approximately 40 beachfront homes from beach access. In the interest of homeowners and recreational boaters within that zone, Captain of the Port (COTP) Toledo has

<sup>25</sup> 44 U.S.C. 3501 *et seq.*

readjusted the western boundary to allow these homeowners full access to their beachfront property, including use of recreational vessels off that beachfront property. The security zone is necessary to protect the Davis Besse Nuclear Power Plant from terrorist threats.

**DATES:** This rule is effective from April 2, 2002 through June 15, 2002.

**FOR FURTHER INFORMATION CONTACT:** LT Herb Oertli, Chief of Port Operations, Marine Safety Office, 420 Madison Ave, Suite 700, Toledo, Ohio 43604; (419) 418-6050.

### Background and Purpose

The Coast Guard published a temporary final rule in the **Federal Register** on October 12, 2001, (66 FR 52038), to create a security zone in response to the September 11, 2001 terrorist attacks on the United States. We are changing the location of the western boundary of the security zone.

### Need for Correction

Since publication, Captain of the Port Toledo has learned that a western boundary located more easterly or closer to the nuclear plant would allow local home-owners full beach access, including by recreational vessel. This readjustment in no ways compromises the intent of the original security zone. The regulation was published in response to the terrorist's attacks on the World Trade Center and the Pentagon on September 11, 2001. The security zone is intended to protect the life, property, and national security of U.S. citizens. These factors were considered along with the impact on local homeowners and recreational vessels in reestablishing the boundaries of this security zone.

### Correction of Publication

In rule FR Doc. 01-25651, published on October 12, 2001, (66 FR 52038) make the following corrections. On page 52038, in the third column, lines 16-23, replace the sentence "The security zone consists of all navigable waters of Lake Erie within a line beginning from position 41°36.8' N, 083°06.2' W; north to 41°37.7' N, 083°06.0' W; east to 41°36.6' N, 083°03.7' W; south to 41°35.8' N, 083°04.0' W, back to the beginning point." and add, in it's place, the sentences "The boundary of the security zone commences at 41°36.3' N, 083°04.9' W; north to 41°37.0' N, 083°03.9' W; east to 41°35.9' N, 083°02.5' W; south-west to 41°35.4' N, 083°03.7' W; then back to the starting point 41°36.3' N, 083°04.9' W. These coordinates are based upon North

American Datum 1983." and on page 52039, in the third column, lines 24-31, remove the sentence "This security zone consists of all navigable waters of Lake Erie within a line beginning from position 41°36.8' N, 083°06.2' W; north to 41°37.7' N, 083°06.0' W; east to 41°36.6' N, 083°03.7' W; south to 41°35.8' N, 083°04.0' W, back to the beginning point." and add, in it's place, the sentence "The boundary of the security zone commences at 41°36.3' N, 083°04.9' W; north to 41°37.0' N, 083°03.9' W; east to 41°35.9' N, 083°02.5' W; south-west to 41°35.4' N, 083°03.7' W; then back to the starting point 41°36.3' N, 083°04.9' W."

Dated: April 3, 2002.

**David L. Scott,**

*Commander, U.S. Coast Guard, Captain of the Port Toledo, Toledo, OH.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Western Alaska-02-005]

RIN 2115-AA97

#### Safety Zone; Gulf of Alaska, Narrow Cape, Kodiak Island, AK

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. The zone is needed to protect persons and vessels operating in the vicinity of the safety zone during a rocket launch from the Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island facility. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Commander, Seventeenth Coast Guard District, the Coast Guard Captain of the Port, Western Alaska, or their on-scene representative.

**DATES:** This temporary final rule is effective from 11:30 a.m. April 22, 2002 through 5:30 p.m. May 15, 2002. The safety zone will be enforced each of these days only from 11:30 a.m. to 5:30 p.m.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are available for inspection and copying at Coast Guard Marine Safety Office Anchorage, 510 "L" Street, Suite 100, Anchorage, AK 99501. Normal Office hours are 7:30 a.m. to 4 p.m.,

Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

LCDR Diane Kalina, Marine Safety Office Anchorage, at (907) 271-6700.

#### 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. Because the hazardous condition is expected to last for approximately 4 hours of each day for 24 days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic is expected to be minimal. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to protect human life and property from possible fallout from the rocket launch. The parameters of the zone will not unduly impair business and transits of vessels. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of each launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners.

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**. The process of scheduling a rocket launch is uncertain due to unforeseen delays such as weather that can cause cancellation of the launch. The Coast Guard attempts to publish a final rule as close to the expected launch date as possible, however, these attempts often prove futile due to frequent re-scheduling. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to protect human life and property from possible fallout from the rocket launch. This safety zone should have minimal impact on vessel transits and announcements via Broadcast Notice to Mariners will give vessels advance notice of the launch.

#### Background and Purpose

The Alaska Aerospace Development Corporation (AADC) will launch an unmanned rocket from their facility at Narrow Cape, Kodiak Island, Alaska sometime between 1:30 p.m. and 5:30 p.m. each day from April 22, 2002 through May 15, 2002. The safety zone