

## Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A “Categorical Exclusion Determination” is available for inspection or copying where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T08–016 is added to read as follows:

### § 165.T08–016 Security Zone; Corpus Christi Inner Harbor, Corpus Christi, Texas.

(a) *Location.* The following area is a security zone: Corpus Christi Inner Harbor from the Inner Harbor Bridge to the Viola Turning Basin and all waters in between.

(b) *Effective dates.* This section is effective from 8 a.m. on February 20, 2002 through 8 a.m. on June 15, 2002.

(c) *Authority.* The authority for this section is 33 U.S.C. 1226, 33 U.S.C. 1231, 33 CFR 1.05–1(g), and 49 CFR 1.46.

(d) *Regulations.* (1) No recreational vessels, passenger vessels, or commercial fishing vessels may enter this security zone unless specifically authorized by the Captain of the Port Corpus Christi, or his designated representative.

(2) Recreational vessels, passenger vessels and commercial fishing vessels requiring entry into this security zone must request permission from the Captain of the Port Corpus Christi, or his designated representative. They may be contacted via VHF Channel 16 or via telephone at (361) 888–3162.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port, Corpus Christi and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: February 20, 2002.

**William J. Wagner III,**

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

[FR Doc. 02–6363 Filed 3–15–02; 8:45 am]

**BILLING CODE 4910–15–U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

[COTP Western Alaska 02–003]

**RIN 2115–AA97**

### Safety Zone; Ouzinkie Harbor, Ouzinkie, AK

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing two temporary safety zones in Ouzinkie Harbor, Ouzinkie, Alaska. One safety zone will surround the barge SWINOMOSH which will be conducting dredging and blasting operations in the navigable waters of Ouzinkie Harbor. The second safety zone will close all of Ouzinkie Harbor when the barge SWINOMOSH conducts blasting operations. The safety zones are necessary to protect vessels transiting the area from the potential hazards associated with the dredging and blasting operations conducted by the barge SWINOMOSH.

**DATES:** This rule is effective from 12:01 a.m. Alaska Standard Time (AST) March 13, 2002, until 9 p.m. AST April 30, 2002.

**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 Western Alaska 02–003) and are available for inspection or copying at Coast Guard Marine Safety Office Anchorage, Alaska between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Matt Jones, USCG Marine Safety Detachment Kodiak, at (907) 486–5918 or Lieutenant Commander Chris Woodley, USCG Marine Safety Office Anchorage, at (907) 271–6700.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On January 31, 2002 we published a notice of proposed rulemaking (NPRM) entitled “Safety Zone; Ouzinkie Harbor, Ouzinkie, Alaska” in the **Federal Register** (67 FR 4692). We did not receive any comments from the public.

No public hearing was requested, and none was held.

Because we received the request late, we find that good cause exists, under 5 U.S.C. 553(d)(3), for making this rule effective less than 30 days after publication in the **Federal Register**.

### Background and Purpose

The U.S. Army Corps of Engineers, through its contractor Western Marine Construction, Inc., will be conducting dredging and blasting operations on portions of Ouzinkie Harbor (Army Corps Of Engineers project number DACW85–01–C–0010). This dredging project will help maintain safe navigation within Ouzinkie Harbor. A 500-yard safety zone around the barge SWINOMOSH and a safety zone closing the harbor and evacuating all vessels from the harbor during blasting operations, is necessary to ensure the safety of the maritime community from the potential hazards associated with dredging and blasting operations.

### Discussion of Comments and Changes

We did not receive any comments but we made a few technical and clarification changes to the rule. In paragraph (a) of section 165.T17–002, we changed the phrase “dredging and blasting operations” to “dredging or blasting operations,” to clarify that the barge zone will be enforced when the barge SWINOMOSH was engaged in dredging alone. We changed the start date for the effective period in paragraph (b) to reflect a delay in the start of the dredging operations, and clarified that blasting and dredging operations will only occur in daylight hours. We also added the time zone in which this safety zone will occur. In paragraph(c) we added wording to clarify how the tug WALDO will notify vessels of blasting operations about to occur.

### Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12886, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the fact that the

safety zone around the barge SWINOMOSH will not restrict vessels from transiting through the harbor. Also, the safety zone closing Ouzinkie Harbor during blasting operations will be announced well in advance so as to allow vessels ample time to plan ahead, and the actual blasting operations will be short in duration. The areas will not affect maritime vessel traffic transiting the shipping channel at Ouzinkie Narrows. Vessel traffic at this time of the year is minimal.

#### 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.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the vicinity of Ouzinkie Harbor during the time this zone is activated.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone area around the barge SWINOMOSH will not restrict vessels from transiting through Ouzinkie Harbor and vessels could pass safely around it. Also, the safety zone closing Ouzinkie Harbor during blasting operations will be announced well in advance so as to allow vessels ample time to plan ahead, and the actual blasting operations will be short in duration. Limited vessel traffic occurs in this area during these months. Before and during the effective period, we will issue a broadcast notice to mariners to warn maritime vessel traffic of the safety zones and operations occurring within the safety zones.

#### 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.

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Consultation and Coordination with Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add § 165.T17–002 to read as follows:

#### § 165.T17–002 Safety Zone: Ouzinkie Harbor Dredging and Blasting Operations, Ouzinkie, Alaska.

(a) *Location.* The following areas are temporary safety zones:

(1) *SWINOMOSH Barge safety zone:* All navigable waters within a 500-yard radius of the barge SWINOMOSH while it is engaged in dredging or blasting operations.

(2) *Ouzinkie Harbor safety zone:* All waters in Ouzinkie Harbor, excluding the SWINOMOSH Barge safety zone,

shoreward from a line drawn from 57°54'58" N, 152°29'35" W to 57°55'04" N, 152°30'00" W and ending at 57°55'12" N, 152°30'10" W.

(b) *Effective period.* This section is effective from 12:01 a.m. Alaska Standard Time (AST) March 13, 2002, until 9 p.m. AST April 30, 2002. Blasting and dredging operations will occur in daylight hours only during this effective period.

(c) *Regulations.* The general regulations contained in 33 CFR 165.23 apply. The attending tug WALDO will broadcast a SECURITE message on VHF-FM channels 16 and 13 prior to each blasting operation and will be standing by on these channels for traffic advisory. All vessels must have permission of the Captain of the Port to enter the safety zones in this section and must monitor broadcasts by the tug WALDO while in the zones. All vessel traffic must be clear of Ouzinkie Harbor before blasting operations may occur.

Dated: February 27, 2002.

**W.J. Hutmacher,**

*Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.*

[FR Doc. 02-6359 Filed 3-15-02; 8:45 am]

BILLING CODE 4910-15-U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 50

[FRL-7159-8]

#### National Ambient Air Quality Standards for Ozone; Notice of Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The purpose of this document is to announce that EPA has scheduled a public meeting to solicit comments on various options to implement the 8-hour ozone national ambient air quality standard (NAAQS). The options contain EPA's preliminary views and are intended to initiate a dialogue with the public on approaches for implementing the 8-hour ozone NAAQS. The EPA is interested in hearing the views from interested stakeholders on the options that we've developed and their ideas on how to best implement the 8-hour ozone NAAQS consistent with the Supreme Court's decision in *Whitman v.*

*American Trucking Association.* An overarching issue that EPA would like public input on is how EPA should address the Supreme Court's holding that subpart 2 of part D of title I of the

Clean Air Act (CAA) applies for purposes of classifying areas under a revised ozone NAAQS.

**DATES:** The one-day meeting will be held from 9:00 a.m. to 5:00 p.m. (MST) on Wednesday, April 3, 2002, in Tempe, Arizona.

**ADDRESSES:** The meeting will be held at: Fiesta Inn Resort, 2100 S. Priest Drive, Tempe, Arizona 85282-1192.

**FOR FURTHER INFORMATION CONTACT:** For general information on the meeting, contact: Denise M. Gerth, U.S. EPA, Office of Air Quality Planning and Standards, C539-02, Research Triangle Park, NC 27711, phone (919) 541-5550, or e-mail: [gerth.denise@epa.gov](mailto:gerth.denise@epa.gov). To register for the meeting, please contact: Barbara Bauer, E. H. Pechan and Associates, Durham, NC, phone (919) 493-3144, extension 188, or e-mail: [barbara.bauer@pechan.com](mailto:barbara.bauer@pechan.com).

**SUPPLEMENTARY INFORMATION:** On July 18, 1997, EPA revised the ozone NAAQS (62 FR 38856). At that time, EPA indicated it would implement the 8-hour ozone NAAQS under the less detailed requirements of subpart 1 of part D of title I of the CAA rather than more detailed requirements of subpart 2 requirements. Various industry groups and States challenged EPA's final rule promulgating the 8-hour ozone NAAQS in the U.S. Court of Appeals for the District of Columbia Circuit.<sup>1</sup> In May 1999, the Appeals Court remanded the ozone standard to EPA on the basis that EPA's interpretation of its authority under the standard-setting provisions of the CAA resulted in an unconstitutional delegation of authority. *American Trucking Assns., Inc. v. EPA*, 175 F.3d 1027, *aff'd*, 195 F.3d 4 (D.C. Cir. 1999). In addition, the Court held that EPA improperly interpreted the statute to provide for implementation of the 8-hour standard under subpart 1, but also determined that EPA could not implement a revised ozone standard under subpart 2. The EPA sought review of these two issues by the U.S. Supreme Court. In February 2001, the Supreme Court upheld the constitutionality of the air quality standard setting. *Whitman v. American Trucking Assoc.*, 121 S. Ct. 903. In addition, the Supreme Court held that EPA has authority to implement a revised ozone standard but that EPA could not ignore subpart 2 when implementing the 8-hour standard. Specifically, the Court noted EPA could not ignore the provisions of subpart 2 that "eliminate[s] regulatory

discretion" allowed by subpart 1. After determining that EPA could not ignore the provisions of subpart 2, the Court went on to identify several portions of the classification scheme that are "ill-fitted" to the revised standard, but left it to EPA to develop a reasonable approach for implementation. Any implementation approach that EPA develops must address the requirements of the CAA, as interpreted by the Supreme Court.

The EPA has initiated a process to obtain stakeholder feedback on options the Agency is developing for implementation of the 8-hour ozone NAAQS. The EPA plans to issue a final rule on the implementation strategy prior to designating areas for the 8-hour ozone NAAQS. The implementation rule will provide specific requirements for State and local air pollution control agencies and tribes to prepare implementation plans to attain and maintain the 8-hour NAAQS. States with areas that are not attaining the 8-hour ozone NAAQS will have to develop—as part of its State implementation plan (SIP)—emission limits and other requirements to attain the NAAQS within the time frames set forth in the CAA.<sup>2</sup> Tribal lands that are not attaining the 8-hour ozone standard may be affected, and could voluntarily submit a tribal implementation plan (TIP), but would not be required to submit a TIP. However, in cases where a TIP is not submitted, EPA would have the responsibility for planning in those areas.

The EPA is holding this meeting in order to obtain stakeholder feedback regarding the options that EPA has developed as well as to listen to any new or different ideas that stakeholders may be interested in presenting. The following topics will be covered at the meeting: (1) Classifications and attainment dates; (2) designations and transport; (3) attainment demonstration issues and transportation planning; and (4) other general SIP issues. New Source Review (NSR) programs that accompany nonattainment designations will not be the subject of this meeting since the EPA is currently considering whether and how to change the NSR program regulations in other contexts. The EPA has placed a variety of materials regarding implementation options, and which will be the focus of the meeting, on the website: [www.epa.gov/ttn/rto/ozonotech/o3imp8hr/o3imp8hr.htm](http://www.epa.gov/ttn/rto/ozonotech/o3imp8hr/o3imp8hr.htm). Additional material will be placed on the website as they are developed.

<sup>1</sup> On July 18, 1997, EPA also promulgated a revised particulate matter (PM) standard (62 FR 38652). Litigation on the PM standard paralleled the litigation on the ozone standard and the court issued one opinion addressing both challenges.

<sup>2</sup> The CAA requires EPA to set ambient air quality standards and requires States to submit SIPs to implement those standards.