

*rata* share are the exclusive means for calculating the amount of insured losses for Program purposes. The *pro rata* share is subject to the following:

(a) The *pro rata* share is determined based on the estimated or actual final claim settlement amount that would otherwise be paid. If partial payments have already been made as of the effective date of the PRLP, then the *pro rata* share for that loss is the greater of the amount already paid or the amount computed by applying the PRLP to the estimated or actual final claim settlement amount.

(b) If an insurer that has not yet made payments in excess of its insurer deductible estimates that it will exceed its insurer deductible making payments based on the application of the PRLP to its insured losses, then the insurer shall apply the PRLP as of the effective date specified in § 50.92(b).

(c) If an insurer that has not yet made payments in excess of its insurer deductible estimates that it will not exceed its insurer deductible making payments based on the application of the PRLP to its insured losses, then the insurer may make payments on the same basis as prior to the effective date of the PRLP. If such insurer thereafter reaches its insurer deductible, then the insurer shall apply the PRLP to its remaining insured losses. When such an insurer submits a claim for the Federal share of compensation, the amount of the insurer's losses will be deemed to be the amount it would have paid if it had applied the PRLP as of the effective date, and the Federal share of compensation will be calculated on that amount. However, an insurer may request an exception if it can demonstrate that its estimate was invalidated as a result of insured losses from a subsequent act of terrorism.

#### § 50.94 Data call authority.

For the purpose of determining initial or recalculated PRLPs Treasury may issue a data call to insurers for insured loss information. Submission of data in response to a data call shall be on a form promulgated by Treasury.

#### § 50.95 Final amount.

(a) Treasury shall determine if, as a final *pro rata*, remaining insured loss payments, as well as adjustments to previous insured loss payments, can be made by insurers based on an adjusted PRLP, and aggregate insured losses still remain within the cap on annual liability. In such a circumstance, Treasury will notify insurers as to the final PRLP and its application to insured losses.

(b) If paragraph (a) of this section applies, Treasury may require, as part of the insurer submission for the Federal share of compensation for insured losses, supplementary explanation regarding how additional payments will be provided on previously settled insured losses.

(c) An insurer that has *pro rated* its insured losses, but that has not met its insurer deductible, remains liable for loss payments that in the aggregate bring the insurer's total insured loss payments up to an amount equal to the lesser of its insured losses without proration or its insurer deductible.

#### § 50.53 [Amended]

3. Section 50.53 is amended by adding paragraph (b)(5) to read as follows:

\* \* \* \* \*

(b) \* \* \*

(5) A certification that if Treasury has determined a *Pro rata* Loss Percentage (PRLP) (see § 50.92), the insurer has complied with applying the PRLP to insured loss payments, where required.

\* \* \* \* \*

David G. Nason,

Assistant Secretary (Financial Institutions).

[FR Doc. E8-22940 Filed 9-29-08; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0440]

RIN 1625-AA87

### Security Zone; Coast Guard Base San Juan, San Juan Harbor, Puerto Rico

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a permanent security zone in the vicinity of the Coast Guard Base in San Juan, Puerto Rico. The security zone is needed for national security reasons to protect the public and the Coast Guard base from potential subversive acts. The proposed rule would exclude entry into the security zone by all vessels and personnel without permission of the U.S. Coast Guard Captain of the Port San Juan.

**DATES:** Comments and related material must reach the Coast Guard on or before December 1, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket

number USCG-2008-0440 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Online: <http://www.regulations.gov>.

(2) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) Hand delivery: Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) Fax: 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Ensign Rachael Love of Sector San Juan, Prevention Operations Department at (787) 289-2071. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

#### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0440), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger

than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, 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.

#### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time. Enter the docket number for this rulemaking (USCG–2008–0440) in the Search box, and click “Go>>.” You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the U.S. Coast Guard Sector San Juan, 5 Calle La Puntilla, San Juan, Puerto Rico, 00901 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

#### Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one 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

The Coast Guard docking facilities at La Puntilla in Old San Juan are home to six Coast Guard cutters and six Coast Guard small boats. Incidents of unknown vessels mooring up to the Coast Guard piers has occurred twice in the past year. In addition, suspected surveillance in the form of photography has been performed by unknown individuals located in close proximity to the Coast Guard base on more than one occasion. These incidents pose a potential threat to national security and

may lead to subversive acts against the personnel or equipment located at the Coast Guard base.

This rulemaking attempts to solve the problem by prohibiting all persons and vessels from entering in, transiting through or remaining in a security zone extending 100 yards seaward from the water's edge of the Coast Guard La Puntilla facility.

#### Discussion of Proposed Rule

This proposed rule would require all people and vessels to remain at least 100 yards from the water's edge of the Coast Guard facility, starting at the north end of the Coast Guard base Pier ALFA, continuing south around the base ending at the northwestern side of La Puntilla. This would prevent vessels from mooring on the Coast Guard piers and unauthorized individuals from being within close proximity to the Coast Guard base.

#### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### Regulatory Planning and Review

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.

This proposed rule is not a significant regulatory action because the security zone only extends 100 yards from Base San Juan and does not impede any regular vessel traffic (i.e., cruise ships, ferries, small passenger vessels, etc.). Vessels will be able to transit safely around the zone. In the event that a vessel or person feels the need to temporarily transit through the proposed security zone, the COTP will handle the requests on a case-by-case basis.

#### 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. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the proposed zone. The impact would not be economically significant because vessels would be able to transit around the zone. The proposed area does not encompass any portions of any shipping channels and would only affect those vessels transiting the area adjacent to the Coast Guard facility.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Ensign Rachael Love of Sector San Juan, Prevention Operations Department at (787) 289–2071. 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 would call 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 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would 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 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 rule is not an economically significant rule and would 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination under the Instruction that this action is not likely to have a significant effect on the human environment. A preliminary environmental analysis check list supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed 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, 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 § 165.776 to read as follows:

### § 165.776 Security Zone; Coast Guard Base San Juan, San Juan Harbor, Puerto Rico.

(a) *Location.* The following area is a security zone: All waters from surface to bottom, encompassed by an imaginary line connecting the following points, beginning at 18°27′39″ N, 066°06′56″ W; then east to Point 2 at 18°27′39″ N, 066°06′52″ W; then South to Point 3 at 18°27′35″ N, 066°06′52″ W; then Southwest to Point 4 at 18°27′30″ N, 066°06′59″ W; then northeast to Point 5 at 18°27′35″ N, 066°07′07″ W; then north to Point 6 at 18°27′46″ N, 066°07′10″ W; then back to shore at the northwest end of the CG facility at Point 7 at 18°27′46″ N, 066°07′07″ W. These coordinates are based upon North American Datum 1983.

(b) *Definitions.* As used in this section—

*Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. naval vessels.

(c) *Regulations.* (1) No person or vessel may enter into the security zone described in paragraph (a) of this section unless authorized by the Captain of the Port San Juan.

(2) Vessels seeking to enter the security zone established in this section may contact the COTP on VHF channel 16 or by telephone at (787) 289–2041 to request permission.

Dated: September 9, 2008.

**E. Pino,**

*Captain, U.S. Coast Guard, Acting Captain of the Port San Juan.*

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**BILLING CODE 4910–15–P**

### ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA–R10–RCRA–2008–0588; FRL–8722–5]

### Idaho: Proposed Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Proposed rule.

**SUMMARY:** Idaho has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery