

impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

#### 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 will 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 proposed 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.

#### Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32) (e) of Commandant Instruction M16475.ID, this proposed rule is categorically excluded from further environmental documentation.

#### 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.

#### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. A new temporary § 117.261 (rr) is added to read as follows:

#### § 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

\* \* \* \* \*

(rr) *Dania Beach Boulevard bridge.*

The Dania Beach Boulevard bridge, mile 1069.4 at Fort Lauderdale, FL need only open a single leaf of the bridge on the quarter hour and three-quarter hour [a period of 45 days during September and October 2002].

\* \* \* \* \*

Dated: February 8, 2002.

**John E. Crowley, Jr.,**

*Captain, U.S. Coast Guard, Commander Seventh Coast Guard District, Acting.*

[FR Doc. 02–4204 Filed 2–20–02; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[LANT AREA–02–001]

RIN 2115–AG33

#### Protection of Naval Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes regulations for the safety and security of U.S. naval vessels in the navigable waters of the United States. Naval vessel protection zones will provide for the regulation of vessel traffic in the vicinity of many U.S. naval vessels in the navigable waters of the United States.

**DATES:** Comments and related material must reach the Coast Guard on or before April 22, 2002.

**ADDRESSES:** You may mail comments and related material to Commander (Amr), Coast Guard Atlantic Area, 431 Crawford Street, Portsmouth, VA

23704–5004. Commander (Amr) 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, are part of docket LANT AREA 02–001 and are available for inspection or copying at Commander (Amr), 431 Crawford Street, Portsmouth, VA, room 416 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander Chris Doane, Commander (Amr), Coast Guard Atlantic Area, 431 Crawford Street, Portsmouth, VA 23704–5004; telephone number (757) 398–6372.

#### 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 (LANT AREA 02–001), 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 now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (Amr), Coast Guard Atlantic Area, 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

These zones are necessary to provide for the safety and security of United States naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91.

On September 21, 2001, the Coast Guard published a temporary final rule entitled “Protection of Naval Vessels” in the **Federal Register** (66 FR 48779). Prior to issuing this temporary final rule, no regulation existed implementing 14 U.S.C. 91. The temporary final rule is in effect until June 15, 2002. The Coast Guard has

received one letter. The U.S. Navy Commander in Chief, Atlantic Fleet has identified a continuing requirement for these protection zones and requested a permanent final rule. No public hearing has been requested, and none has been held.

We have determined that a continuing need exists for the protection of naval vessels. Therefore, we are establishing a final rule that will replace the temporary rule by June 15, 2002. Based on our experience with the temporary final rule, we have made some changes that are detailed at length in the "Discussion" section of this preamble.

#### Discussion of Proposed Rule

This proposed rule, for safety and security concerns, controls vessel movement in a regulated area surrounding many U.S. naval vessels. All vessels within 500 yards of such a U.S. naval vessel shall operate at the minimum speed necessary to maintain a safe course, unless required by the Navigation Rules to maintain speed, and shall always proceed as directed by the Coast Guard, the senior naval officer present in command, or the official patrol. No vessel or person is allowed within 100 yards of a U.S. naval vessel greater than 100 feet in length unless authorized by the Coast Guard, the senior naval officer present in command, or the official patrol.

In the proposed rule, we altered the definition of "navigable waters of the United States." In the temporary final rule, we cited to 33 CFR 2.05-25 for the definition of navigable waters. The Coast Guard has plans to amend these regulations to re-define the terms in 33 CFR part 2. When the 33 CFR part 2 amendments are complete, 33 CFR 2.05-25 may no longer exist (66 FR 61897, 61941, December 3, 2001). We, therefore, now propose to simply refer to 33 CFR part 2 for the definition of navigable waters of the United States.

In the proposed rule, "official patrol" is now defined as those personnel designated and supervised by a senior naval officer present in command and tasked to monitor a naval vessel protection zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone, and take other actions authorized by the U.S. Navy. The proposed rule does not limit the senior naval officer's discretion in designating the official patrol since this is an operational decision based on the totality of the circumstances and governed by a number of U.S. Navy practices and directives.

In the proposed rule, the term "senior naval officer present in command" is more clearly defined than in the

temporary final rule. In the temporary final rule, the note to section 165.2020(b) defined the term "senior naval officer present in command." This note has been eliminated and replaced with a formal definition of the term based on the text of 32 CFR 700.901. In the proposed rule, a senior naval officer present in command is, unless otherwise designated by competent authority, the senior line officer of the U.S. Navy on active duty, eligible for command at sea, who is present and in command of any part of the Department of the Navy in the area. We anticipate that the senior naval officer present in command normally will be the Commanding Officer of a U.S. naval vessel or his or her military designee. However, it is possible that the U.S. Navy may occasionally designate a different officer.

When necessary, the senior naval officer present in command has full authority to enforce the proposed regulation and may directly assist any Coast Guard enforcement personnel who are present in the vicinity of a U.S. naval vessel. Any Coast Guard commissioned, warrant, or petty officer may enforce the rules and regulations contained in the proposed rule. In almost all cases, however, only on scene Coast Guard personnel will be involved in direct enforcement of the proposed rule, especially when a mariner is arranging safe passage between his or her vessel and an underway U.S. naval vessel. On very rare occasions, the Coast Guard Captain of the Port or District Commander may become involved with granting permission for a vessel transit through a naval vessel protection zone around a moored or anchored U.S. naval vessel. At no time should these officials, or any other Coast Guard member not at the immediate scene, be expected to arrange for safe passage between an underway vessel and an underway U.S. naval vessel.

In the proposed rule, the definition of "U.S. naval vessel" has been expanded to include any pre-commissioned vessel under construction for the U.S. Navy, once launched into the water, and any vessel under the operational control of a Combatant Command. The full definition now reads that a U.S. naval vessel is any vessel owned, operated, chartered, or leased by the U.S. Navy; any pre-commissioned vessel under construction for the U.S. Navy, once launched into the water; and any vessel under the operational control of the U.S. Navy or a Combatant Command.

This broad definition includes vessels traditionally recognized as U.S. Navy vessels (aircraft carriers, submarines, frigates, etc.) and other vessels that are

less easily recognized. For example, the U.S. Transportation Command (TRANSCOM) is a Combatant Command, and consists of the Navy's Military Sealift Command (MSC), the Army's Military Traffic Management Command (MTMC), and the Air Force's Air Mobility Command (AMC). Any vessel under TRANSCOM operational control meets the definition of a U.S. naval vessel.

Pre-commissioned U.S. Navy vessels have distinctive U.S. Navy markings and profiles, usually including hull numbers, the ship's name, and U.S. Navy coloring. There are strong public policy reasons to protect these pre-commissioned vessels and the U.S. Navy personnel assigned to them.

The definition of U.S. naval vessel also includes floating drydocks that meet all other requirements and any U.S. naval vessel in a commercial drydock within the navigable waters of the United States.

The proposed rule contains new language to more accurately describe the current command and control structure over U.S. naval vessels. In the definition of U.S. naval vessel, the term "unified commander" has been replaced with "Combatant Command." The term "Combatant Command" is described in 10 U.S.C. 162 and 10 U.S.C. 164. The term "Combatant Command" includes such unified commands as TRANSCOM and U.S. Joint Forces Command (JFCOM).

The proposed rule states that naval vessel protection zones exist around U.S. naval vessels greater than 100 feet in length overall. The zones exist around these vessels at all times in the navigable waters of the U.S., whether the U.S. naval vessel is underway, anchored, moored, or within a floating drydock, except when the naval vessel is moored or anchored within a restricted area or within a naval defensive sea area. The primary purpose of this rule is to provide security for U.S. naval vessels that are moored or anchored away from their normal homeports and while moving through the navigable waters. Since most U.S. Navy piers are already protected by either restricted areas or naval defensive sea zones, the naval vessels within these areas do not require naval vessel protection zones.

Only larger U.S. naval vessels are surrounded by a naval vessel protection zone to minimize this rule's effect on the public. For example, small U.S. Naval Academy sailboats or other recreational vessels meet the definition of a "U.S. naval vessel" but do not require naval vessel protection zones. Moreover, the presence of a zone around

these naval vessels could unnecessarily interfere with other mariners. Likewise, tugboats owned or leased by the U.S. Navy fit the definition of "U.S. naval vessel," but do not require naval vessel protection zones.

The proposed rule defines U.S. naval vessels over 100 feet in length overall as "large U.S. naval vessels." This definition helps us avoid long, and potentially confusing, sentences in parts of the proposed rule.

The proposed rule contains several additional provisions to limit public impact. Vessels that need to pass within 100 yards of a large U.S. naval vessel may contact the Coast Guard, the senior naval officer present in command, or the official patrol on VHF-FM channel 16 to obtain the necessary permission.

Additionally, the Coast Guard, senior naval officer present in command, or the official patrol should permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a large U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules.

Similarly, commercial vessels anchored in a designated anchorage area should be permitted to remain at anchor within 100 yards of a passing large U.S. naval vessel when consistent with security requirements. As illustrated by the October 12, 2000, attack on the U.S.S. COLE, all vessels are potentially a security threat; therefore, vessels may, at times, be required to move. From a pure security perspective, all anchored vessels should be required to move. We believe, however, that security must be balanced with the burden on mariners and encourage enforcement officials to limit the impact on larger vessels, which are the most expensive and difficult to move.

In the proposed rule, we added language to address the situation where a naval vessel protection zone around a moored or anchored U.S. naval vessel effectively shuts down a narrow waterway. This situation could arise when a U.S. naval vessel makes a temporary port visit away from its normal homeport. In this situation, the Coast Guard, senior naval officer present in command, or the official patrol should permit transiting vessels to pass within 100 yards of the moored U.S. naval vessel with the minimal delay consistent with security requirements. This proposed rule does not intend to block narrow waterways from public use for extended periods of time. Mariners should anticipate some delay due to security needs. However, by including this new language in the regulation text, we want to make it clear

that the Coast Guard, senior naval officer present in command, or the official patrol should, when appropriate, allow transiting vessels within the 100-yard exclusionary zone as needed to safely pass through a navigable channel or waterway. While maintaining security is paramount, avoiding extended delays in normal traffic is also very important.

We also added language that the Coast Guard, senior naval officer present in command, or the official patrol should give advance notice on VHF-FM channel 16 of all movements by large U.S. naval vessels once security concerns permit publicizing the movement. The goal is to give as much advance notice as possible. In most cases, however, this notice will probably be no more than an hour or two. These notifications should, to some extent, help mariners adjust their navigation plans accordingly or obtain early permission to enter into a naval vessel protection zone.

Violations of these regulations are punishable as a class D felony (imprisonment for not more than 6 years and a fine of not more than \$250,000), a civil penalty, and may result in rem liability against the vessel.

#### 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 Transportation (DOT)(44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this proposed regulation restricts access to the regulated area, the effect of this proposed regulation will not be significant because: (i) Individual naval vessel protection zones are limited in size; (ii) the Coast Guard, senior naval officer present in command, or official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will only effect a given geographical location for a limited time; and (iv) when conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should give advance notice of all naval

vessel movements on VHF-FM channel 16 so mariners can adjust their plans accordingly. Further, the Coast Guard received no comments related to economic impact following implementation of the temporary final rule.

#### 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 will not have a significant economic impact on a substantial number of small entities.

This proposed rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of U.S. naval vessels in the navigable waters of the United States.

This proposed regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual naval vessel protection zones are limited in size; (ii) the official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will only affect a given geographic location for a limited time; and (iv) when conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should give advance notice of all naval vessel movements on VHF-FM channel 16 so mariners can adjust their plans accordingly. Further, the Coast Guard received no comments related to small entity impact following implementation of the temporary final rule.

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 rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

#### 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).

#### 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 will 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 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 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 does not create an environmental risk to health or risk to safety that may 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

#### 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. 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 proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**. Further, the Coast Guard received no comments related to environmental impact following implementation of the temporary final rule.

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

Harbors, Marine safety, Navigation (water), Protection of naval vessels, 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 subpart G reads as follows:

**Authority:** 14 U.S.C 91 and 633; 49 CFR 1.45.

2. Subpart G is added to part 165 to read as follows:

#### Subpart G—Protection of Naval Vessels

Sec.

165.2010 Purpose.  
165.2015 Definitions.  
165.2020 Enforcement Authority.  
165.2025 Atlantic Area.

#### Subpart G—Protection of Naval Vessels

##### § 165.2010 Purpose.

This subpart establishes the geographic parameters of naval vessel protection zones surrounding U.S. naval vessels in the navigable waters of the United States. This subpart also establishes when the U.S. Navy will take enforcement action in accordance with the statutory guidelines of 14 U.S.C. 91. Nothing in the rules and regulations contained in this subpart shall relieve any vessel, including U.S. naval vessels, from the observance of the Navigation Rules. The rules and regulations contained in this subpart supplement, but do not replace or supercede, any other regulation pertaining to the safety or security of U.S. naval vessels.

##### § 165.2015 Definitions.

The following definitions apply to this subpart:

*Atlantic Area* means that area described in 33 CFR 3.04–1 Atlantic Area.

*Large U.S. naval vessel* means any U.S. naval vessel greater than 100 feet in length overall.

*Naval defensive sea area* means those areas described in 32 CFR part 761.

*Naval vessel protection zone* is a 500-yard regulated area of water surrounding large U.S. naval vessels that is necessary to provide for the safety or security of these U.S. naval vessels.

*Navigable waters of the United States* means those waters defined as such in 33 CFR part 2.

*Navigation rules* means the Navigation Rules, International-Inland.

*Official patrol* means those personnel designated and supervised by a senior naval officer present in command and tasked to monitor a naval vessel protection zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone, and take other actions authorized by the U.S. Navy.

*Pacific Area* means that area described in 33 CFR 3.04–3 Pacific Area.

*Restricted area* means those areas established by the Army Corps of Engineers and set out in 33 CFR part 334.

*Senior naval officer present in command* is, unless otherwise

designated by competent authority, the senior line officer of the U.S. Navy on active duty, eligible for command at sea, who is present and in command of any part of the Department of Navy in the area.

*U.S. naval vessel* means any vessel owned, operated, chartered, or leased by the U.S. Navy; any pre-commissioned vessel under construction for the U.S. Navy, once launched into the water; and any vessel under the operational control of the U.S. Navy or a Combatant Command.

*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.

#### **§ 165.2020 Enforcement Authority.**

(a) *Coast Guard*. Any Coast Guard commissioned, warrant or petty officer may enforce the rules and regulations contained in this subpart.

(b) *Senior naval officer present in command*. In the navigable waters of the United States, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to exercise effective control in the vicinity of large U.S. naval vessels, the senior naval officer present in command is responsible for the enforcement of the rules and regulations contained in this subpart to ensure the safety and security of all large naval vessels present. In meeting this responsibility, the senior naval officer present in command may directly assist any Coast Guard enforcement personnel who are present.

#### **§ 165.2025 Atlantic Area.**

(a) This section applies to any vessel or person in the navigable waters of the United States within the boundaries of the U.S. Coast Guard Atlantic Area, which includes the First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts.

**Note to § 165.2025 paragraph (a):** The boundaries of the U.S. Coast Guard Atlantic Area and the First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts are set out in 33 CFR part 3.

(b) A naval vessel protection zone exists around U.S. naval vessels greater than 100 feet in length overall at all times in the navigable waters of the United States, whether the large U.S. naval vessel is underway, anchored, moored, or within a floating drydock, except when the large naval vessel is moored or anchored within a restricted area or within a naval defensive sea area.

(c) The Navigation Rules shall apply at all times within a naval vessel protection zone.

(d) When within a naval vessel protection zone, all vessels shall operate at the minimum speed necessary to maintain a safe course, unless required to maintain speed by the Navigation Rules, and shall proceed as directed by the Coast Guard, the senior naval officer present in command, or the official patrol. When within a naval vessel protection zone, no vessel or person is allowed within 100 yards of a large U.S. naval vessel unless authorized by the Coast Guard, the senior naval officer present in command, or official patrol.

(e) To request authorization to operate within 100 yards of a large U.S. naval vessel, contact the Coast Guard, the senior naval officer present in command, or the official patrol on VHF-FM channel 16.

(f) When conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should:

(1) Give advance notice on VHF-FM channel 16 of all large U.S. naval vessel movements; and

(2) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a large U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(3) Permit commercial vessels anchored in a designated anchorage area to remain at anchor when within 100 yards of passing large U.S. naval vessels; and

(4) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of a moored or anchored large U.S. naval vessel with minimal delay consistent with security.

**Note to § 165.2025 paragraph (f):** The listed actions are discretionary and do not create any additional right to appeal or otherwise dispute a decision of the Coast Guard, the senior naval officer present in command, or the official patrol.

Dated: February 8, 2002.

**T.C. Paar,**

*Captain, Coast Guard, Commander, Atlantic Area, Acting.*

[FR Doc. 02-4205 Filed 2-20-02; 8:45 am]

**BILLING CODE 4910-15-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR PART 52**

[OH118-1b; FRL-7133-9]

#### **Approval and Promulgation of Implementation Plan Ohio; Nonattainment Major Stationary Source Rules**

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

**ACTION:** Proposed rule.

**SUMMARY:** In this action, EPA is proposing to approve an addition to the Ohio State Implementation Plan (SIP), comprising rules for nonattainment New Source Review (NSR) procedures. This addition makes the State's existing program for nonattainment NSR procedures into the SIP. It was submitted as a SIP revision request on April 22, 1996 (with subsequent amendments), by the Ohio Environmental Protection Agency (OEPA) to EPA for approval. It consists of general NSR provisions and NSR provisions relating to nonattainment areas. The subsequent amendments resolved problems that prevented full approval and added rules for the public notice requirements of all NSR permits. The EPA proposes to approve the amended SIP revision request as the basis for an NSR nonattainment permitting program consistent with federal rules.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. The EPA has explained reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comment, EPA will take no further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. In that event, EPA will address all relevant public comments in a subsequent final rule based on this proposed rule. In either event, EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** Written comments must be received by March 25, 2002.

**ADDRESSES:** Written comments should be addressed to Ms. Pamela Blakley, Chief, Permits and Grants Section (IL/IN/OH), Attention: Mr. Kaushal Gupta, at the EPA Region 5 office listed below.