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Dated: March 25, 2002.

**M.E. Landry,**  
*Commander, Coast Guard, Captain of the  
 Port, Acting, Boston, Massachusetts.*  
 [FR Doc. 02-8789 Filed 4-10-02; 8:45 am]  
 BILLING CODE 4910-15-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-02-004]

RIN 2115-AA97

#### Security Zone; Captain of the Port Detroit Zone, Selfridge Air National Guard Base, Lake St. Clair

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a permanent security zone on the navigable waters of Lake St. Clair in the Captain of the Port Detroit Zone. This security zone is necessary to protect the Selfridge Air National Guard Base from possible acts of terrorism. This security zone is intended to restrict vessel traffic from a predetermined and specific area in Lake St. Clair off of Selfridge Air National Guard Base.

**DATES:** Comments and related material must reach the Coast Guard on or before May 13, 2002.

**ADDRESSES:** You may mail comments to U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave, Detroit, Michigan 48207. The telephone number is (313) 568-9580. Marine Safety Office Detroit maintains the public docket for this rulemaking. Comments and materials 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 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**  
 Lieutenant Junior Grade (LTJG) Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave, Detroit, Michigan 48207, (313) 568-9580.

#### 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 (CGD09-02-004), 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 8 1/2 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 U.S. Coast Guard Marine Safety Office Detroit 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

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in catastrophic loss of life, the destruction of the World Trade Center and significant damage to the Pentagon. National security and intelligence officials warn that future terrorists attacks are likely.

We propose to establish a permanent security zone in the waters off of Selfridge Air National Guard Base in Harrison Township, Michigan. The security zone commences at the northeast corner of Selfridge Air National Guard Base at 42° 37.8' N, 082° 49.1' W; then eastward approximately one half mile from shore to 42° 37.8' N, 082° 48.45' W; then south to 42° 37.2' N, 082° 48.45' W; then southeast to 42° 36.8' N, 082° 47.2' W; then southwest to Mac and Rays Marina 42° 36.4' N, 082° 47.9' W. These coordinates are based upon North American Datum 1983 (NAD 83). The westerly boundary is the shoreline of Selfridge Air National Guard Base.

This security zone is necessary to protect the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Detroit, or his authorized representative, are prohibited from entering or moving within this zone. The Captain of the Port Detroit may be contacted via VHF Channel 16 for further instructions before transiting through the restricted area. The Captain of the Port Detroit's on-scene representative will be the

patrol commander. In addition to publication in the **Federal Register**, the public will be made aware of the existence of this security zone, exact location and the restrictions involved, via Broadcast Notice to Mariners.

##### Discussion of Proposed Rule

Following the catastrophic nature and extent of damage realized from the attacks of September 11, this proposed rulemaking is necessary to protect the national security interests of the United States against future attacks.

On September 24, 2001 we published a temporary final rule establishing a security zone on the waters around Selfridge Air National Guard Base (66 FR 48796), which was later amended on October 18, 2001 (66 FR 52851). The current rulemaking proposes to establish a permanent security zone in place of that temporary security zone. This regulation proposes to establish permanent security zone for the waters off of Selfridge Air National Guard Base in Harrison Township, Michigan, commencing at the northeast corner of Selfridge Air National Guard Base at 42° 37.8' N, 082° 49.1' W; then eastward approximately one half mile from shore to 42° 37.8' N, 082° 48.45' W; then south to 42° 37.2' N, 082° 48.45' W; then southeast to 42° 36.8' N, 082° 47.2' W; then southwest to Mac and Rays Marina 42° 36.4' N, 082° 47.9' W. These coordinates are based upon North American Datum 1983 (NAD 83). The westerly boundary is the shoreline of Selfridge Air National Guard Base.

##### Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 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 exempted it from review 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). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

##### 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 security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will not obstruct the regular flow of commercial traffic and will allow vessel traffic to pass around the security zone.

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 office listed in **ADDRESSES** in this preamble.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### 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

We have analyzed this proposed rule under Executive Order 13132, Federalism, 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 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 affect 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

The Coast Guard has 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

The Coast Guard has 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

The Coast Guard has considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (34) (g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written 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 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:** 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.

#### § 165.T09—998 [Removed]

2. Remove § 165.T09—998  
3. Add § 165.910 to read as follows:

#### § 165.910 Security Zone; Captain of the Port Detroit Zone, Selfridge Air National Guard Base.

(a) **Location.** The following is a security zone: Commencing at the northeast corner of Selfridge Air National Guard Base at 42°37.8' N, 082°49.1' W; then eastward approximately one half mile from shore to 42°37.8' N, 082°48.45' W; then south to 42°37.2' N, 082°48.45' W; then southeast to 42°36.8' N, 082°47.2' W; then southwest to Mac and Rays Marina 42°36.4' N, 082°47.9' W (NAD 83). The westerly boundary is the shoreline of Selfridge Air National Guard Base.

(b) **Regulations.** (1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit. Section 165.33 also contains other general requirements.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port Detroit at telephone number (313) 568-9580, or on VHF/FM channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with

the instructions of the Captain of the Port or his or her designated representative.

(c) **Authority.** In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: April 4, 2002.

**P. G. Gerrity,**

*Commander, Coast Guard, Captain of the Port Detroit.*

[FR Doc. 02-8786 Filed 4-10-02; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[KY-123; KY-123-1; KY 137-200218(b); FRL-7169-8]

#### Approval and Promulgation of Implementation Plans: Kentucky: Nitrogen Oxides Budget and Allowance Trading Program

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is approving the State Implementation Plan (SIP) revision that was submitted by the Commonwealth of Kentucky (Kentucky) on January 31, 2002. This revision responds to EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call." This revision establishes and requires nitrogen oxides (NO<sub>x</sub>) reduction requirements and an allowance trading program for large electric generating and industrial units, beginning in 2004. It also establishes and requires NO<sub>x</sub> reduction requirements for cement kilns beginning in 2004. The revision includes a budget demonstration and initial source allocations that clearly demonstrate that Kentucky will achieve the required NO<sub>x</sub> emission reductions in accordance with the timelines set forth in EPA's NO<sub>x</sub> SIP Call. The intended effect of this SIP revision is to reduce emissions of NO<sub>x</sub> in order to help attain the national ambient air quality standard for ozone. EPA is approving Kentucky's NO<sub>x</sub> Reduction and Trading Program because it meets the requirements of the Phase I NO<sub>x</sub> SIP Call that will significantly reduce ozone transport in the eastern United States.

EPA is also approving several revisions to existing regulation 401 KAR 51:001 (Definitions for 401 KAR Chapter

51) that do not address NO<sub>x</sub> SIP Call requirements, but fulfill other Kentucky statutory requirements. In the Final Rules Section of this **Federal Register**, the EPA is approving the Kentucky NO<sub>x</sub> SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before May 13, 2002.

**ADDRESSES:** All comments should be addressed to: Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW; Atlanta, Georgia 30303-8960. Copies of Kentucky's submittals and other information relevant to this action are available for inspection during normal business hours at the following addresses: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601-1403.

The interested persons wanting to examine these documents should make an appointment at least 24 hours before the visiting day and reference files KY-123, KY-123-1 and KY-137.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW.; Atlanta, Georgia 30303-8960. Mr. Lakeman can also be reached by phone at (404) 562-9043 or by electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: April 1, 2002.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 02-8684 Filed 4-10-02; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 02-691; MM Docket No. 02-63, RM-10398]

#### Radio Broadcasting Services; Walla Walla and Burbank, WA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Alexandra Communications proposing the reallocation of Channel 256C2 from Walla Walla to Burbank, Washington, and the modification of Station KUJ-FM's construction permit accordingly. Channel 265C2 can be reallocated to Burbank in compliance with the Commission's minimum distance separation at without the imposition of a site restriction petitioner's presently licensed site. The coordinates for Channel 256C2 at Burbank are 45°57'22" North Latitude and 118°41'11" West Longitude. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest for the use of Channel 256C2 at Burbank, Washington.

**DATES:** Comments must be filed on or before May 13, 2002, reply comments on or before May 28, 2002.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mr. Thomas D. Hodgins, Alexandra Communications, 45 Campbell Road, Walla Walla, Washington 99362 (Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 02-63, adopted March 13, 2002, released March 22, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased