

**PART 806b—AIR FORCE PRIVACY ACT PROGRAM**

■ 1. The authority citation for 32 CFR part 806b continues to read as follows:

**Authority:** Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Paragraph (a)(5) of Appendix C to part 806b is revised to read as follows:

**Appendix C to Part 806b—General and Specific Exemptions**

\* \* \* \* \*

(a) General exemptions. \* \* \*

(5) *System identifier and name:* F031 AF SF A, Correction and Rehabilitation Records.

(i) *Exemption:* (A) Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency, which performs as its principle function any activity pertaining to the enforcement of criminal laws.

(B) Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(E) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (j)(2) of the Privacy Act of 1974.

(F) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(G) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or

untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(H) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(I) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(J) From subsection (g) because this system of records compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(K) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Instruction, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis necessary for effective law enforcement.

\* \* \* \* \*

November 20, 2003.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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**BILLING CODE 5000–06–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**[CGD07–03–200]**

**RIN 1625–AA11**

**Regulated Navigation Area; San Carlos Bay, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary rule; request for comments.

**SUMMARY:** The Coast Guard is establishing a temporary regulated navigation area on the waters of San Carlos Bay, Florida. The regulated navigation area is needed to minimize the risk of potential bridge collisions by vessels utilizing the main channel under span “A” (bascule portion) of the Sanibel Island Causeway Bridge and enhance the safety of vessels transiting the area and vehicles crossing over the bridge. This temporary rule covers the entire effective period from November 29, 2003 to November 28, 2004, but the Coast Guard may change this rule based on comments received.

**DATES:** This rule is effective from 12:01 a.m. on November 29, 2003 until 11:59 p.m. on November 28, 2004. Comments must be received by January 29, 2004.

**ADDRESSES:** You may mail comments and related material to Commander (m), Seventh Coast Guard District, 8th Floor, 909 SE 1st Ave., Miami, FL 33131–3050.

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 [CGD07–03–200] and are available for inspection or copying at the Seventh Coast Guard District Marine Safety Division, located at the above address, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Brian Gove, Project Officer, Seventh Coast Guard District, Marine Safety Branch, telephone 305–415–6743.

**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 [CGD07–03–200], indicate the specific section of this document to which each comment applies, and give the reason for each comment. The Coast Guard is interested in comments that, among other issues, detail specific economic impact to stakeholders on the waterway. 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 that 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 rule in view of them.

## Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. The updated information concerning the state of disrepair of the Sanibel Island Causeway Bridge was brought to the attention of the Coast Guard on November 25, 2003. Publishing a NPRM and delaying its effective date would be contrary to the public interest because immediate initial action is needed to maximize the risk of potential bridge allusions by vessels utilizing the main channel under span "A" (basculer portion) of the bridge and enhance the safety of vessels transiting the area and vehicles crossing over the bridge. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restrictions. Additionally, the Coast Guard is soliciting comments on this rule and may make changes in light of them.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard is making this rule effective on November 29, 2003 because immediate initial action is needed to minimize the risk of potential bridge allusions by vessels utilizing the main channel under span "A" (basculer portion) of the Sanibel Island Causeway Bridge and enhance the safety of vessels transiting the area and vehicles crossing over the bridge.

## Public Meeting

We do not now plan to hold a public meeting. However, you may submit a request for a meeting by writing to Marine Safety Division, Seventh Coast Guard District, 909 SE 1st Ave, 8th Floor, Miami, FL 33131, 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 November 18, 2003, the Lee County Board of Commissioners issued an emergency declaration that present conditions of the Sanibel Island Causeway Bridge pose an immediate threat to the safety of the traveling public. Immediate initial action is thus required to minimize the risk of potential bridge allusions by vessels utilizing the main channel under span "A" (basculer portion) of the bridge and enhance the safety of vessels transiting

the area and vehicles crossing over the bridge.

## Discussion of Rule

The regulated navigation area will encompass the main channel under the "A" span (basculer portion) of the Sanibel Island Causeway Bridge out to 100 feet on either side of the bridge encompassing the main shipping channel. All vessels are required to transit the area at no wake speed. However, nothing in this rule negates the requirement to operate at a safe speed as provided in the Navigation Rules and Regulations. A one-way traffic scheme is imposed within the regulated navigation area. Overtaking is prohibited. Stern towing is prohibited. Side towing is permitted. However, tugs with barges must be arranged in a push-ahead configuration with barges made up in tandem. Tugs must be of adequate horsepower to fully maneuver the barges. Tug and barge traffic may transit the regulated navigation area at slack water only. These regulations are going into effect to minimize the risk of potential bridge allusions by vessels utilizing the main channel under span "A" (basculer portion) of the Sanibel Island Causeway Bridge and enhance the safety of vessels transiting the area and vehicles crossing over the bridge.

## Regulatory Evaluation

This 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 Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The Coast Guard bases this finding on the following: vessels may still transit the area; the waterway is not a major commercial route, and the Coast Guard expects only modest delays due to the nature of marine traffic that traditionally uses the waterway.

Additionally, the Coast Guard is soliciting comments to determine the impact on the boating public, and may make adjustments based on comments we receive.

## 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 would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit a portion of San Carlos Bay. The Coast Guard certifies that this rule would not have a significant economic impact on a substantial number of small entities for the following reasons: vessels may still transit the area; the waterway is not a major commercial route, and the Coast Guard expects only modest delays due to the nature of marine traffic that traditionally uses the waterway.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule has 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 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the temporary rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The Coast Guard has created a comment period for this temporary rule, and is particularly interested in comments describing specific economic impacts to small entities. This will allow the Coast Guard to better evaluate impacts to small entities. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small business 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 businesses. 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 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule does 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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This 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. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

#### 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. 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.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation.

An "Environmental Analysis Check List" and a "Categorical Exclusion Determination" (CED) has been placed in the docket 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 is amending 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, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T07-200 to read as follows:

#### § 165.T07-200 San Carlos Bay, Florida—Regulated Navigation Area

(a) *Location.* The following area is a regulated navigation area (RNA): the waters bounded by the following points: NW Corner: 26° 28.992N, 082° 00.895 W;

NE Corner: 26° 28.998N, 082° 00.874 W; SW Corner: 26° 28.942N, 082° 00.875 W; SE Corner: 26° 28.948N, 082° 00.854 W.

(b) *Regulations.* (1) A vessel in the RNA established under paragraph (a) of this section will operate at no wake speed. Nothing in this rule is to be construed as to negate the requirement to at all times operate at a safe speed as provided in the Navigation Rules and Regulations.

(2) A one-way traffic scheme is established. Vessel traffic may proceed in one direction at a time through the RNA. Overtaking is prohibited.

(3) Stern tows are not authorized. Side tows may be used. However, tugs with barges must be arranged in a push-ahead configuration with the barges made up in tandem. Tugs must be of adequate horsepower to maneuver the barges. Tug and barge traffic may transit the RNA at slack water only.

(c) *Definition.* The following definitions apply to this section:

*Vessel.* Every description of watercraft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on the water.

*Overtaking.* A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the stern light of the vessel but neither of her sidelights.

*Slack water.* The state of a tidal current when its speed is near zero, especially the moment when a reversing current changes direction and its speed is zero. The term also is applied to the entire period of low speed near the time of turning of the current when it is too weak to be of any practical importance in navigation.

(d) *Enforcement.* Persons in violation of these regulations will be subject to civil penalty under 33 U.S.C. 1232 of this part, to include a maximum civil penalty of \$27,500 per violation.

(e) *Effective period.* This section is effective from 12:01 a.m. on November 29, 2003, until 11:59 p.m. on November 28, 2004.

Dated: November 29, 2003.

**Harvey E. Johnson, Jr.,**

*Rear Admiral, U.S. Coast Guard, Commander,  
Seventh Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MO 199-1199a; FRL-7592-5]

#### Approval and Promulgation of Implementation Plans; State of Missouri

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving an amendment to the Missouri State Implementation Plan (SIP) pertaining to an update to a St. Louis city SIP-approved Ordinance and incinerator permit. The effect of this action is to ensure Federal enforceability of the local agency's air program rules and to maintain consistency between the local agency adopted rules and the approved SIP.

**DATES:** This direct final rule will be effective February 9, 2004, without further notice, unless EPA receives adverse comment by January 8, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be submitted to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Electronic comments should be sent either to [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in "What action is EPA taking" in the **SUPPLEMENTARY INFORMATION** section.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551-7603, or by e-mail at [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?

What Is the Federal Approval Process for a SIP?

What Does Federal Approval of a State Regulation Mean to Me?

What Is being addressed in this document?

Have the Requirements for Approval of a SIP Revision Been Met?

What Action Is EPA Taking?

#### What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires States to develop air pollution regulations and control strategies to ensure that State air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each State must submit these regulations and control strategies to EPA for approval and incorporation into the federally-enforceable SIP.

Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing State regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

#### What Is the Federal Approval Process for a SIP?

In order for State regulations to be incorporated into the federally-enforceable SIP, States must formally adopt the regulations and control strategies consistent with State and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a State-authorized rulemaking body.

Once a State rule, regulation, or control strategy is adopted, the State submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the State submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All State regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual State regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given State regulation with a specific effective date.

#### What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the State regulation before and after it is incorporated into the federally-approved SIP is primarily a State responsibility. However, after the regulation is federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

#### What Is Being Addressed in This Document?

In August 2003, the St. Louis city Board of Aldermen updated the current SIP-approved Ordinance No. 64749 by rescinding it and adopting replacement Ordinance No. 65645. The only changes in the SIP-approved portion of the new Ordinance is the renumbering of Section 7—Definitions, to Section 6, and Section 17—Open Burning Restrictions, to Section 15.

Approving the new Ordinance subsequently necessitated that a reference to it in a SIP-approved St. Louis University Hospital incinerator permit, No. 00-01-004, be revised. Consequently, we are also approving a letter from the City of St. Louis Department of Health to St. Louis University Hospital, dated April 25, 2003, which revises Section II, B of incinerator permit No. 00-01-004, by updating the referenced Ordinance number to No. 65645.

A technical support document (TSD) containing additional information and background material for this action has been prepared and is available from the EPA contact listed above.

#### Have the Requirements for Approval of a SIP Revision Been Met?

The State submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSD