

religious organizations as a result of a genuine and independent private choice of a beneficiary, provided the religious organizations otherwise satisfy the requirements of the program. A religious organization may receive such funds as the result of a beneficiary's genuine and independent choice if, for example, a beneficiary redeems a voucher, coupon, or certificate, allowing the beneficiary to direct where funds are to be paid, or a similar funding mechanism provided to that beneficiary and designed to give that beneficiary a choice among providers.

#### **PART 90—VIOLENCE AGAINST WOMEN**

- 7. The authority citation for part 90 is revised to read as follows:

**Authority:** 42 U.S.C. 3711–3796gg–7; Sec. 826, Part E, Title VIII, Pub. L. 105–244, 112 Stat. 1581, 1815.

- 8. Add § 90.3 to subpart A to read as follows:

##### **§ 90.3 Participation by faith-based organizations.**

The funds provided under this part shall be administered in compliance with the standards set forth in part 38 (Equal Treatment for Faith-based Organizations) of this chapter.

#### **PART 91—GRANTS FOR CORRECTIONAL FACILITIES**

- 9. The authority citation for part 91 is revised to read as follows:

**Authority:** 42 U.S.C. 13701 through 14223.

- 10. In § 91.3, add paragraph (g) to read as follows:

##### **§ 91.3 General eligibility requirements.**

(g) The funds provided under this part shall be administered in compliance with the standards set forth in part 38 (Equal Treatment for Faith-based Organizations) of this chapter.

- 11. In § 91.23, add paragraph (d) to read as follows:

##### **§ 91.23 Grant authority.**

(d) The funds provided under this part shall be administered in compliance with the standards set forth in part 38 (Equal Treatment for Faith-based Organizations) of this chapter.

#### **PART 93—PROVISIONS IMPLEMENTING THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994**

- 12. The authority citation for part 93 is added to read as follows:

**Authority:** 42 U.S.C. 3797u through 3797y–4.

- 13. In § 93.4, add paragraph (c) to read as follows:

##### **§ 93.4 Grant authority.**

\* \* \* \* \*

(c) The funds provided under this part shall be administered in compliance with the standards set forth in part 38 (Equal Treatment for Faith-based Organizations) of this chapter.

Dated: January 14, 2004.

**John Ashcroft,**

*Attorney General.*

[FR Doc. 04–1165 Filed 1–20–04; 8:45 am]

**BILLING CODE 4410–18–P**

#### **DEPARTMENT OF HOMELAND SECURITY**

##### **Coast Guard**

##### **33 CFR Part 165**

[CGD11–03–001]

RIN 1625–AA11

##### **Regulated Navigation Areas, San Francisco Bay, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising the regulated navigation areas (RNA) at: the Benicia-Martinez Railroad Drawbridge (BMRD) at the entrance to Suisun Bay; the Pinole Shoal Channel RNA; the southern boundary of the Southampton Shoal/Richmond Harbor RNA; and the portion of the Oakland Harbor RNA that lies just due north of Anchorage 8. The revisions will: clarify and expand the boundaries of the BMRD RNA; restrict vessels less than 1600 gross tons from entering the Pinole Shoal Channel RNA; expand the boundary for the Southampton Shoal/Richmond Harbor RNA; and designate new boundary lines for the Oakland Harbor RNA to coincide with the new Anchorage 8 boundaries. These revisions will clarify the procedures for vessels intending to transit which are either moored or in transit bound for the BMRD; allow towing vessels with tow of 1600 or more gross tons to utilize the Pinole Shoal Channel; further reduce the risk of groundings and collisions by expanding the RNA in the Southampton Shoal to encompass the federally maintained waterway; and correct the coordinates for the northern boundary of the Oakland Harbor RNA that is inaccurately listed in the current RNA regulation.

**DATES:** This final rule is effective February 20, 2004.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD11 03–001 and are available for inspection or copying at District Eleven Marine Safety Division, Waterways Management Section, Coast Guard Island, Building 51–1, Alameda, CA, 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG Michael Boyes, District Eleven Marine Safety Division, Waterways Management Section, at (510) 437–5954.

##### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On September 18, 2003, we published a notice of proposed rulemaking (NPRM) entitled Regulated Navigation Areas (RNAs), San Francisco Bay, CA in the *Federal Register* (68 FR 181). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

##### **Background and Purpose**

*Benicia-Martinez Railroad Drawbridge RNA:* The purpose is to revise the regulated navigation area (RNA) at the Benicia-Martinez Railroad Drawbridge at the entrance to Suisun Bay. The revision will refer to the bridge that is the focus of the RNA in terms of geographic locality and remove any reference to corporate naming methods. The revision will convert the distance measurement from 1000 yards to ½ nautical mile. The revision will clarify and expand the boundaries of the RNA and clarify the procedures for vessels intending to transit through the Benicia-Martinez Railroad Drawbridge that are either moored or anchored within the boundaries of the revised RNA.

*Pinole Shoal Channel RNA:* Revision of this regulation will update the current Pinole Shoal Channel RNA that currently restricts vessels drawing a draft less than 20 feet from operating within the channel. Instead of the draft requirement, the new regulations will restrict vessels less than 1600 gross tons from entering the Pinole Shoal Channel RNA. This change will allow vessels of 1600 gross tons or a tug with a tow of 1600 gross tons that may not necessarily draw 20 feet of draft to utilize the marked channel. The RNA will continue to benefit vessels based on their maneuverability and keep smaller vessels out of the channel.

*Southampton/Richmond Harbor RNA:* Based on the results of a

Waterways Analysis and Management Study of the Southampton Shoal Channel in April 2000, the Coast Guard relocated Southampton Shoal Channel Lighted Buoys 1, 2, 3, 4, 5, 6 and 7 to properly mark the federally maintained waterway. This extended the marked channel beyond the southern limits of the RNA. This rule extends the RNA so that it encompasses the federally maintained waterway. This RNA will increase navigational safety by organizing traffic flow patterns; reducing meeting, crossing, and overtaking situations between large vessels in constricted channels; and limiting vessel speed.

*Oakland Harbor RNA:* This final rule will incorporate an administrative change to revise the boundary line of the affected Oakland Harbor RNA to coincide with the new boundaries of Anchorage 8. While Anchorage 8 increased in size by approximately 2,300 square feet to the northwest, the Oakland Harbor RNA lying just north of this anchorage decreased in size by the same amount. This final rule will correct the misprinted coordinates in the current RNA regulation for the northern boundary of the Oakland Harbor RNA. The corrected coordinates will reflect what NOAA has already charted. The regulations that apply to vessels within this RNA will still remain the same.

### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and do 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).

The rule change for the Benicia-Martinez Railroad Drawbridge is primarily a naming reference change and boundary modifications. The minimum visibility requirements and clarification of vessel procedures for vessels transiting the area are intended to be implemented in conjunction with already accepted standards for vessel reporting as utilized by local pilot associations and bridge operators. This rule for visibility and reporting is designed to have minimal regulatory impact on how deep draft vessels transit the Benicia-Martinez Railroad Bridge region during periods of reduced visibility. The change to the Pinole Shoal Channel will keep smaller vessels out of the Pinole Shoal Channel but

there is currently enough deep water just south of the channel for vessels of 15 to 19 feet draft to transit safely south of the channel. The changes to the Southampton Shoal/Richmond Harbor and Oakland RNAs coincide to chart changes and waterway practices that are already in effect.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

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

### Federalism

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

### Unfunded Mandates Reform Act

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

### Taking of Private Property

This rule will 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 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 will 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 will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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 because we are changing a regulated navigation area.

An "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are available in the docket where indicated under

### ADDRESSES.

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

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

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

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

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

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 165.1181 by revising paragraphs(c)(1)(ii)(C)(3), (c)(5), (c)(6)(ii), (c)(7), (e)(1)(ii)(E), (e)(2)(i) and (ii) and (e)(3) to read as follows:

**§ 165.1181 San Francisco Bay Region, California—regulated navigation area.**

\* \* \* \* \*

- (c) \* \* \*
- (1) \* \* \*
- (ii) \* \* \*
- (C) \* \* \*

(3) *Deep Water (two-way) Traffic Lane:* Bounded by the Central Bay precautionary area and the Golden Gate precautionary area, between the Deep Water Traffic Lane separation zone and a line connecting the following coordinates, beginning at:

\* \* \* \* \*

(5) *Benicia-Martinez Railroad Drawbridge Regulated Navigation Area (RNA):* The following is a regulated navigation area—The waters bounded by the following longitude lines:

(i) 122°13'31" W (coinciding with the charted location of the Carquinez Bridge)

(ii) 121°53'17" W (coinciding with the charted location of New York Point)

Datum: NAD 83

(6) \* \* \*

(ii) The waters bounded by a line connecting the following coordinates, beginning at:

37°54'28" N, 122°23'36" W; thence to 37°54'20" N, 122°23'38" W; thence to 37°54'23" N, 122°24'02" W; thence to 37°54'57" N, 122°24'51" W; thence to 37°55'05" N, 122°25'02" W; thence to 37°54'57" N, 122°25'22" W; thence to 37°53'26" N, 122°25'03" W; thence to 37°53'24" N, 122°25'13" W; thence to 37°55'30" N, 122°25'35" W; thence to 37°55'40" N, 122°25'10" W; thence to 37°54'54" N, 122°24'30" W; thence to 37°54'30" N, 122°24'00" W; thence returning to the point of beginning.

Datum: NAD 83

(7) *Oakland Harbor RNA:* The following is a regulated navigation area—The waters bounded by a line connecting the following coordinates, beginning at:

37°48'40" N, 122°19'58" W; thence to 37°48'50" N, 122°20'02" W; thence to 37°48'29" N, 122°20'39" W; thence to 37°48'13" N, 122°21'26" W; thence to 37°48'10" N, 122°21'39" W; thence to 37°48'20" N, 122°22'12" W; thence to 37°47'36" N, 122°21'50" W; thence to 37°47'52" N, 122°21'40" W; thence to 37°48'03" N, 122°21'00" W; thence to 37°47'48" N, 122°19'46" W; thence to 37°47'55" N, 122°19'43" W; thence returning along the shoreline to the point of the beginning.

Datum: NAD 83

\* \* \* \* \*

- (e) \* \* \*
- (1) \* \* \*
- (ii) \* \* \*

(E) So far as practicable keep clear of the Central Bay Separation Zone and the Deep Water Traffic Lane Separation Zone;

\* \* \* \* \*

(2) \* \* \*

(i) A vessel less than 1600 gross tons or a tug with a tow of less than 1600 gross tons is not permitted within this RNA.

(ii) A power-driven vessel of 1600 or more gross tons or a tug with a tow of 1600 or more gross tons is navigating therein if such entry would result in meeting, crossing, or overtaking the other vessel, when either vessel is:

(A) Carrying certain dangerous cargoes (as denoted in § 160.203 of this subchapter);

(B) Carrying bulk petroleum products; or

(C) A tank vessel in ballast.

\* \* \* \* \*

(3) *Benicia-Martinez Railroad Drawbridge Regulated Navigation Area (RNA):*

(i) Eastbound vessels:

(A) The master, pilot, or person directing the movement of a power-driven vessel of 1600 or more gross tons or a tug with a tow of 1600 or more gross tons traveling eastbound and intending to transit under the lift span (centered at coordinates 38°02'18" N, 122°07'17" W) of the railroad bridge across Carquinez Strait at mile 7.0 shall, immediately after entering the RNA, determine whether the visibility around the lift span is ½ nautical mile or greater.

(B) If the visibility is less than ½ nautical mile, or subsequently becomes less than ½ nautical mile, the vessel shall not transit under the lift span.

(ii) Westbound vessels:

(A) The master, pilot, or person directing the movement of a power-driven vessel of 1600 or more gross tons or a tug with a tow of 1600 or more gross tons traveling westbound and intending to transit under the lift span (centered at coordinates 38°02'18" N, 122°07'17" W) of the railroad bridge across Carquinez Strait at mile 7.0 shall, immediately after entering the RNA determine whether the visibility around the lift span is ½ nautical mile or greater.

(B) If the visibility is less than ½ nautical mile, the vessel shall not pass beyond longitude line 121°55'19" W (coinciding with the charted position of the westernmost end of Mallard Island) until the visibility improves to greater than ½ nautical mile around the lift span.

(C) If after entering the RNA visibility around the lift span subsequently becomes less than ½ nautical mile, the master, pilot, or person directing the movement of the vessel either shall not transit under the lift span or shall request a deviation from the requirements of the RNA as prescribed in paragraph (b) of this section.

(D) Vessels that are moored or anchored within the RNA with the intent to transit under the lift span shall remain moored or anchored until visibility around the lift span becomes greater than ½ nautical mile.

Dated: December 17, 2003.

**Kevin J. Eldridge,**

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

[FR Doc. 04–1266 Filed 1–20–04; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of the Secretary**

**45 CFR Part 13**

**Implementation of the Equal Access to Justice Act in Agency Proceedings**

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Department's regulations under the Equal Access to Justice Act (EAJA), 5 U.S.C. 504, to conform with statutory amendments to the EAJA and reflect the separation of the Social Security Administration from HHS.