

## PART 4003—RULES FOR ADMINISTRATIVE REVIEW OF AGENCY DECISIONS

- 1. The authority citation for part 4003 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

### § 4003.1 [Amended]

- 2. In § 4003.1:
  - a. Paragraph (b)(6) is amended by removing the words “or section 4022A(a)”.  
■ b. Paragraph (b)(7) is amended by removing the words “(c), section 4022A(b) through (e), or” and adding in their place the words “(c) or”.

### § 4003.2 [Amended]

- 3. In § 4003.2:
  - a. The definition of *Appeals Board* is amended by removing the word “Executive”.  
■ b. The definition of *Director* is amended by removing the word “Executive” each place it appears in the definition.

### § 4003.4 [Amended]

- 4. In § 4003.4, paragraph (b) introductory text is amended by removing the word “Executive”.

### § 4003.33 [Amended]

- 5. Section 4003.33 is amended by removing the word “Executive”.

### § 4003.35 [Amended]

- 6. In § 4033.35, paragraph (a)(2) is amended by removing the word “Executive” each place it appears in the paragraph.

### § 4003.53 [Amended]

- 7. Section 4003.53 is amended by removing the words “Appeals Board, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 2005–4026” and adding in their place the words “Appeals Board”.  
■ 8. In § 4003.54, paragraphs (a)(3) and (a)(4) are revised to read as follows:

### § 4003.54 Contents of appeal.

- (a) \* \* \*
- \* \* \* \* \*

(3) Specifically explain why PBGC’s determination is wrong and the result the appellant is seeking;

(4) Describe the relevant information the appellant believes is known by PBGC, and summarize any other information the appellant believes is relevant. It is important to include copies of any documentation that support the appellant’s claim or the appellant’s assertions about this information;

- \* \* \* \* \*

- 9. In § 4003.58:
  - a. The existing text of the section is redesignated as paragraph (a).  
■ b. A new paragraph (b) is added to read as follows:

### § 4003.58 Powers of the Appeals Board.

\* \* \* \* \*

(b) The Appeals Board may refer certain appeals to another PBGC department or to Appeals Board staff to provide a response to the appellant. The response from another PBGC department or Board staff shall be in writing and address the matters raised in the appeal. The response may be in the form of an explanation or corrected benefit determination. In either case, the appellant will have 45 calendar-days from the date of the response to file a written request for review by the Appeals Board. If a written request for review is not filed with the Appeals Board within the 45-calendar-day period the determination shall become effective pursuant to § 4003.22(a).

(1) Appeals that may be referred to another PBGC department or to the Board staff include those that—

(i) Request an explanation of the initial determination being appealed;

(ii) Dispute specific data used in the determination, such as date of hire, date of retirement, date of termination of employment, length of service, compensation, marital status and form of benefit elected; or

(iii) Request an explanation of the limits on benefits payable by PBGC under Part 4022, Subpart B, such as the maximum guaranteeable benefit and phase-in of the PBGC guarantee.

(2) An explanation or corrected benefit determination issued under this subsection is not considered a decision of the Appeals Board. If an appellant aggrieved by PBGC’s initial determination is issued an explanation or corrected benefit determination under this section, the appellant has not exhausted his or her administrative remedies until the appellant has filed a timely request with the Appeals Board for review and the Appeals Board has issued a decision granting or denying the relief requested. See § 4003.7 of this part.

- 10. In § 4003.60:

- a. The section heading is amended by removing the word “Executive”.  
■ b. The text of the section is amended by removing the word “Executive” each place it appears.

Issued in Washington, DC, this 29th day of April, 2008.

Elaine L. Chao,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

Judith R. Starr,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. E8–15196 Filed 7–2–08; 8:45 am]

BILLING CODE 7709–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2008–0539]

RIN 1625-AA00

### Security Zone; Thea Foss Waterway, Tacoma, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The U.S. Coast Guard is establishing a temporary security zone in the Thea Foss Waterway, Tacoma, Washington during a reception at the Museum of Glass. This security zone is necessary to ensure the safety of dignitaries while attending the reception. Entry into, transit through, mooring, or anchoring within this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

**DATES:** This rule is effective from 6 p.m. (PDT) to 11:59 p.m. (PDT) on July 3, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0539 and are available for inspection or copying at USCG Sector Seattle, Waterways Management Division between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions concerning this rule, call Ensign Heidi A. Bevis, Waterways Management Division, U.S. Coast Guard Sector Seattle, at 206–217–6147.

### SUPPLEMENTARY INFORMATION:

#### 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 an NPRM. Publishing

a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of the dignitaries that will be at the Museum of Glass on the date and times this rule will be in effect. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event.

Under 5 U.S.C. 553(d)(3), the U.S. Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Making this rule effective less than 30 days after publication is necessary to ensure the safety of the dignitaries that will be at the Museum of Glass on the date and times this rule will be in effect.

### Background and Purpose

The U.S. Coast Guard is establishing a temporary security zone in the Thea Foss Waterway, Tacoma, Washington to provide for the safety of visiting dignitaries while attending a reception at the Museum of Glass. The reception is one of many events planned in the Puget Sound during the annual ASTA Pacific Tall Ships Challenge and the Tacoma Tall Ships 2008 Event. The U.S. Coast Guard is establishing this zone to ensure that no unauthorized vessels or persons enter into the security zone. The security zone is needed to protect the dignitaries from any waterborne threats.

### Discussion of Rule

This rule will control the movement of all vessels and persons in a security zone that includes all waters within a line connecting the following points 47°14.80 N, 122°26.00 W; 47°14.80 N, 122°25.97 W; 47°14.60 N, 122°25.92 W; and 47°14.6 N, 122°25.95 W. The security zone does not extend on land.

The U.S. Coast Guard through this action intends to promote the security of personnel while attending the reception at the Museum of Glass, which is located on the waterfront of the Thea Foss Waterway, Tacoma, WA. Entry into this zone by all vessels or persons will be prohibited unless authorized by the Captain of the Port. This security zone will be enforced by U.S. Coast Guard personnel. The Captain of the Port may be assisted by other federal, state, or local agencies as needed.

### 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. This rule will be in effect for less than 6 hours and vessel traffic can pass safely around the security zone.

### 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 U.S. 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.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for less than 6 hours and vessel traffic can pass safely around the security zone. Before the effective period, we will issue maritime advisories widely available throughout the Puget Sound.

### 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

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

### 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.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling

procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide 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. Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule because it concerns an emergency situation of less than 1 week in duration.

## 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 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. Chapters 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. From 6 p.m. (PDT) to 11:59 p.m. (PDT) on July 3, 2008, a temporary § 165.T13–041 is added to read as follows:

### § 165.T13–041 Security Zone: Thea Foss Waterway, Tacoma, Washington.

(a) **Location.** The following area is a security zone: All waters within a line connecting the following points 47°14.80 N, 122°26.00 W; 47°14.80 N, 122°25.97 W; 47°14.60 N, 122°25.92 W; and 47°14.6 N, 122°25.95 W.

(b) **Regulations.** In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel may enter, transit, moor, or anchor within the security zone described in paragraph (a) of this section, except for vessels authorized by the Captain of the Port or his designated representatives.

(c) **Enforcement period.** This rule is effective from 6 p.m. (PDT) to 11:59 p.m. (PDT) on July 3, 2008. If the need for the security zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of this section and will announce that fact via Broadcast Notice to Mariners.

Dated: June 20, 2008.

**Stephen P. Metruck,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. E8–15207 Filed 7–2–08; 8:45 am]

**BILLING CODE 4910–15–P**

change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail.

[www.regulations.gov](http://www.regulations.gov) is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Lily Wong, EPA Region IX, (415) 947–4114, [wong.lily@epa.gov](mailto:wong.lily@epa.gov).

### SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to EPA.

### Table of Contents

- I. The State’s Submittal
  - A. What rules did the State submit?
  - B. Are there other versions of these rules?
  - C. What is the purpose of the submitted rule revisions?
- II. EPA’s Evaluation and Action
  - A. How is EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?
  - C. Public Comment and Final Action
- III. Statutory and Executive Order Reviews

### I. The State’s Submittal

#### A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the SCAQMD and submitted by the California Air Resources Board (CARB).

**Instructions:** All comments will be included in the public docket without