initiated using information from a consumer's check among the types of transfers that a consumer can make. (*See* Appendix A–2.)◄

* * * * *

7(c) Addition of Electronic Fund Transfer Services

►1. *Addition of electronic check conversion services.* One-time EFTs initiated using information from a consumer s check are a new type of transfer requiring new disclosures, as applicable. (*See* Appendix A–2.)◄

* * * * *

Section 205.10—Preauthorized Transfers

* * * * *

10(b) Written Authorization for Preauthorized Transfers From Consumer's Account

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3. *Written authorization for preauthorized transfers.* The requirement that preauthorized EFTs be authorized by the consumer ''only by a writing'' cannot be met by a payee's signing a written authorization on the consumer's behalf with only an oral authorization from the consumer.[A tape recording of a telephone conversation with a consumer who agrees to preauthorized debits also does not constitute written authorization for purposes of this provision.]

* * * * *

7. *Bona fide error.* Consumers sometimes authorize third-party payees, by telephone or on-line, to submit recurring charges against a credit card account. If the consumer indicates use of a credit card account when in fact a debit card is being used, the payee does not violate the requirement to obtain a written authorization if the failure to obtain written authorization was not intentional and resulted from a bona fide error, and if the payee maintains procedures reasonably adapted to avoid any such error. ►Procedures reasonably adapted to avoid error will depend upon the circumstances. Generally, requesting the consumer to specify whether the card to be used for the authorization is a debit card or is a credit card, using those terms, is a reasonable procedure. Where the consumer has indicated that the card is a credit card (or that the card is not a debit card), however, the payee may rely on the consumer's assertion without seeking further information about the type of card.◄ If the payee is unable to determine, at the time of the authorization, whether a credit or debit card number is involved, and later finds that the card used is a debit card ►(for example, because the consumer brings the matter to the payee's attention)◄, the payee must obtain a written and signed or (where appropriate) a similarly authenticated authorization as soon as reasonably possible, or cease debiting the consumer's account.

10(c) Consumer's Right To Stop Payment

* * * * *

2. *Revocation of authorization.* Once a financial institution has been notified that the consumer's authorization is no longer valid, it must block all future payments for the particular debit transmitted by the designated payee-originator. ►(However, refer to comment 10(c)-3.)◄ The institution may not wait for the payee-originator to terminate the automatic debits. The institution may confirm that the consumer has informed the payee-originator of the revocation (for example, by requiring a copy of the consumer's revocation as written confirmation to be provided within 14 days of an oral notification). If the institution does not receive the required written confirmation within the 14-day period, it may honor subsequent debits to the account.

►3. *Alternative procedure for real-time processing.* If an institution does not have the capability to block a preauthorized debit from being posted to the consumer's account-as in the case of a preauthorized debit made through a debit card network or other real-time system, for example ''the institution may instead comply with the stop-payment requirements by using a third party to block the transfer(s), as long as the recurring debits are in fact stopped. If in a particular instance, however, the debit is not stopped, the consumer's institution would not be in compliance with Regulation E in that instance.◄

10(d) Notice of Transfers Varying in Amount

* * * * *

Paragraph 10(d)(2)—Range

* * * * *

►2. *Transfers to an account of the consumer held at another institution.* A financial institution that elects to offer the consumer a specified range for debits to an account of the consumer need not obtain the consumer's consent to provide the specified range in lieu of the notice of transfers varying in amount if the funds are transferred and credited to an account of the consumer held at another financial institution. The range, however, must be an acceptable range that could be anticipated by the consumer, and the institution must notify the consumer of the range.◄

* * * * *

Section 205.11—Procedures for Resolving Errors

* * * * *

11(b) Notice of Error From Consumer

Paragraph 11(b)(1)—Timing; Contents

* * * * *

►7. *Effect of late notice.* An institution is not required to comply with the requirements of this section for any notice of error from the consumer that is received by the institution later than 60 days from the date on which the periodic statement first reflecting the error is sent. Where the consumer's assertion of error involves an unauthorized EFT, however, the institution must comply with § 205.6 before it may impose any liability on the consumer.◄

* * * * *

11(c) Time Limits and Extent of Investigation

* * * * *

Paragraph 11(c)(4) Investigation

* * * * *

►5. *No EFT agreement.* When there is no agreement between the institution and the third party for the type of EFT involved, the financial institution must review all information within the institution s own records relevant to resolving the consumer's particular claim. For example, a financial institution may not limit its investigation to the payment instructions where additional information within its own records could be dispositive on a consumer's claim.◄

* * * * *

Section 205.16—Disclosures at Automated Teller Machines

16(b) General

Paragraph 16(b)(1)

1. *Specific notices.* An ATM operator that imposes a fee for a specific type of transaction such as ►for◄ a cash withdrawal, but not ►for◄ a balance inquiry, ►or imposes a fee only on some customers, such as those using cards issued by institutions other than the ATM operator,◄ may provide a general [statement] ►notice◄ on or at the ATM machine◄ that a fee [will] ►may◄ be imposed for providing EFT services or may specify the type of EFT► or consumers◄ for which a fee is imposed.► If, however, a fee will be imposed in all instances, the notice must state that a fee will be imposed.◄

* * * * *

By order of the Board of Governors of the Federal Reserve System, September 13, 2004.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 04–20939 Filed 9–16–04; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 04–003]

RIN 1625–AA87

Security Zones; Monterey Bay and Humboldt Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent moving and fixed security zones extending 100 yards in the U.S. navigable waters around and under all cruise ships, tankers, and High Interest Vessels (HIVs) that enter, are moored or anchored in, or depart from the designated waters of Monterey Bay or Humboldt Bay, California. These security zones are needed for national security reasons to protect the public and ports of Monterey Bay and Humboldt Bay from potential subversive acts. Entry into these security zones would be prohibited, unless specifically authorized by the Captain of the Port

San Francisco Bay, or his designated representative.

DATES: Comments and related material must reach the Coast Guard on or before November 16, 2004.

ADDRESSES: You may mail comments and related material to the Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California 94501. The Waterways Management Branch 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, will become part of this docket and will be available for inspection or copying at the Waterways Management Branch between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Doug Ebbers, Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437–2770.

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 (COTP San Francisco Bay 04–003), 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 that your submission 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 the Waterways Management Branch 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 separate notice in the **Federal Register**.

Background and Purpose

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan and the conflict in Iraq have made it prudent for U.S. ports to be on a higher state of alert because Al-Qaeda and other organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

The threat of maritime attacks is real as evidenced by the attack on the USS COLE and the subsequent attack in October 2002 against a tank vessel off the coast of Yemen. These threats manifest a continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered by the September 11, 2001 attacks and that such aggression continues to endanger the international relations of the United States. See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks (67 FR 58317, September 13, 2002), and Continuation of the National Emergency with Respect to Persons Who Commit, Threaten To Commit, Or Support Terrorism (67 FR 59447, September 20, 2002). The U.S. Maritime Administration (MARAD) in Advisory 02–07 advised U.S. shipping interests to maintain a heightened status of alert against possible terrorist attacks. MARAD more recently issued Advisory 03–05 informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. Ongoing foreign hostilities have made it prudent for U.S. ports and waterways to be on a higher state of alert because the Al-Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

In this particular rulemaking, to address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against a cruise ship, tanker, or HIV would have on the public interest, the Coast Guard is proposing to establish permanent security zones around and under cruise ships, tankers, and HIVs that enter, are moored or anchored in, or depart from the designated waters of Monterey Bay or Humboldt Bay, California. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against these types of vessels. Due to these heightened security concerns, and the catastrophic impact a terrorist attack on a cruise ship, tanker, or HIV would have on the crew and passengers on board, and the surrounding area and communities, security zones are prudent for these types of vessels.

On December 31, 2002, we published the final rule [COTP San Francisco Bay 02–019] adding § 165.1183, ''Security Zones; Cruise Ships and Tank Vessels, San Francisco Bay and Delta ports, California'' in the **Federal Register** (67 FR 79854). That section set forth security zones for cruise ships and tank vessels in San Francisco Bay and delta ports. A subsequent final rule [COTP San Francisco Bay 03–002] published in the **Federal Register** (69 FR 8817) on February 26, 2004, amended § 165.1183 to include HIVs as protected vessels in that section, along with cruise ships and tank vessels.

On March 29, 2004, we published a temporary final rule under COTP San Francisco Bay 04–002 in the **Federal Register** (69 FR 16163) creating temporary § 165.T11–004 of Title 33 of the Code of Federal Regulations (CFR). Under temporary § 165.T11–004, the Coast Guard established 100-yard moving and fixed security zones around all cruise ships, tank vessels, and HIVs that enter, are moored or anchored in, or depart from the designated waters of Monterey Bay or Humboldt Bay, California.

Though temporary § 165.T11–004 expired at 11:59 p.m. on September 5, 2004, it was effectively and seamlessly extended by a change in effective period temporary rule that was issued on August 31, 2004. This change in the effective period of the temporary rule is also found under docket COTP San Francisco Bay 04–002, and extended the rule to 11:59 p.m. on March 5, 2005. The Captain of the Port has determined

there is a need for continued security regulations.

We propose to create permanent security zones in the same areas currently protected by temporary security zones under § 165.T11–004. Our proposed rule would amend § 165.1183 ''Security Zones; Cruise Ships, Tank Vessels, and High Interest Vessels (HIVs), San Francisco Bay and Delta ports, California'' (67 FR 79856) to accomplish the following: (1) Update the definition of ''cruise ship'' to match the definition in 33 CFR 101.105, (2) change the term ''tank vessel'' to ''tanker'' to coincide with the definition in 33 CFR 160.3 and better reflect our intention for the rule to apply to self-propelled vessels, and (3) extend the permanent security zones established around cruise ships, tank vessels, and HIVs in San Francisco Bay and Delta Ports to include cruise ships, tankers, and HIVs in Monterey Bay and Humboldt Bay.

Discussion of Proposed Rule

For Humboldt Bay, a security zone would be activated when any cruise ship, tanker, or HIV enters the area shoreward of a 4 nautical mile radius line drawn to the west of the Humboldt Bay Entrance Lighted Whistle Buoy HB (LLNR 8130), in position 40°46.25′ N, 124°16.13′ W.

For Monterey Bay, a security zone would be activated when any cruise ship, tanker, or HIV passes shoreward of a line drawn between Santa Cruz Light (LLNR 305) to the north in position 36°57.10′ N, 122°01.60′ W, and Cypress Point, Monterey to the south, in position 36°34.90′ N, 121°58.70′ W.

The security zone would remain in effect while the cruise ship, tanker, or HIV is underway, anchored or moored within the designated waters of Monterey Bay or Humboldt Bay. When activated, the security zone would encompass all waters, extending from the surface to the sea floor, within 100 yards ahead, astern and extending 100 yards along either side of the vessel. This security zone would be automatically deactivated when the vessel departs from the areas of Monterey Bay or Humboldt Bay designated in this rule. Vessels and people may be allowed to enter these proposed security zones on a case-by-case basis with authorization from the Captain of the Port.

These security zones are needed for national security reasons to protect cruise ships, tankers, HIVs, the public, transiting vessels, adjacent waterfront facilities and the ports from potential subversive acts, accidents or other events of a similar nature. Entry into these zones would be prohibited unless specifically authorized by the Captain of the Port or his designated representative.

The Captain of the Port would enforce these zones and may enlist the aid and cooperation of any Federal, State, county, municipal and private agency to assist in the enforcement of the regulation. Section 165.33 of Title 33, Code of Federal Regulations, prohibits any unauthorized person or vessel from entering or remaining in a security zone. Vessels or persons violating this section would be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed $32,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment from 5 to 10 years and a maximum fine of $250,000), and in rem liability against the offending vessel. Any person who violates this section using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, will also face imprisonment from 10 to 25 years. Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel to the United States, a maximum criminal fine of $10,000, imprisonment up to 10 years, and a civil penalty of not more than $25,000 for each day of a continuing violation.

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 Homeland Security (DHS).

Although this proposed regulation would restrict access to a portion of navigable waters, the effect of this regulation would not be significant because: (i) The zones would encompass only a small portion of the waterway; (ii) vessels would be able to pass safely around the zones; and (iii) vessels may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port or his designated representative.

The size of the zones is the minimum necessary to provide adequate protection for all cruise ships, tankers, and HIVs, other vessels operating in the vicinity of these vessels, adjoining areas, and the public. The entities most likely to be affected are fishing vessels and pleasure craft engaged in recreational activities and sightseeing.

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 rule will not have a significant economic impact on a substantial number of small entities. We expect this rule may affect owners and operators of vessels, some of which may be small entities, intending to fish, sightsee, transit, or anchor in the waters affected by these security zones. These proposed security zones would not have a significant economic impact on a substantial number of small entities for several reasons: vessel traffic would be able to pass safely around the area, vessels engaged in recreational activities, sightseeing and commercial fishing would have ample space outside of the security zones to engage in these activities, and small entities and the maritime public will be advised of these security zones via public notice to mariners.

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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Doug Ebbers, Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay,

(510) 437–2770. The Coast Guard will not retaliate against small entities that question of complain about this rule or any policy or action of the Coast Guard.

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

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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this proposed 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.

Indian Tribal Governments

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, 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 proposed rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone.

A draft ''Environmental Analysis Check List'' and a draft ''Categorical Exclusion Determination'' (CED) will be available in the docket where indicated under **ADDRESSES.** Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

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: 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, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.1183 to read as follows:

§ 165.1183 Security Zones; Cruise Ships, Tankers and High Interest Vessels, San Francisco Bay and Delta ports, Monterey Bay and Humboldt Bay, California.

(a) *Definitions.* As used in this section—

Cruise ship means any vessel over 100 gross register tons, carrying more than 12 passengers for hire which makes voyages lasting more than 24 hours, of which any part is on the high seas. Passengers from cruise ships are embarked or disembarked in the U.S. or its territories. Cruise ships do not include ferries that hold Coast Guard Certificates of Inspection endorsed for ''Lakes, Bays and Sounds'' that transit international waters for only short periods of time on frequent schedules.

Tanker means any self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

High Interest Vessel or HIV means any vessel deemed by the Captain of the Port or higher authority as a vessel requiring protection based upon risk assessment analysis of the vessel and is therefore escorted by a Coast Guard or other law enforcement vessel with an embarked Coast Guard commissioned, warrant, or petty officer.

(b) *Locations.* The following areas are security zones:

(1) *San Francisco Bay.* All waters, extending from the surface to the sea floor, within 100 yards ahead, astern

and extending 100 yards along either side of any cruise ship, tanker or HIV that is underway, anchored, or moored within the San Francisco Bay and Delta port areas shoreward of the line drawn between San Francisco Main Ship Channel buoys 7 and 8 (LLNR 4190 & 4195, positions 37°46.9′ N, 122°35.4′ W and 37°46.5′ N, 122°35.2′ W, respectively);

(2) *Monterey Bay.* All waters, extending from the surface to the sea floor, within 100 yards ahead, astern and extending 100 yards along either side of any cruise ship, tanker or HIV that is underway, anchored, or moored within the Monterey Bay area shoreward of a line drawn between Santa Cruz Light (LLNR 305) to the north in position 36°57.10′N, 122°01.60′W, and Cypress Point, Monterey to the south, in position 36°34.90′N, 121°58.70′W.

(3) *Humboldt Bay.* All waters, extending from the surface to the sea floor, within 100 yards ahead, astern and extending 100 yards along either side of any cruise ship, tanker or HIV that is underway, anchored, or moored within the Humboldt Bay area shoreward of a 4 nautical mile radius line drawn to the west of the Humboldt Bay Entrance Lighted Whistle Buoy HB (LLNR 8130), in position 40°46.25′N, 124°16.13′W.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.33 of this part, entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, San Francisco Bay, or his designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 415–399–3547 or on VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

Dated: September 7, 2004.

Gerald M. Swanson,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.

[FR Doc. 04–21007 Filed 9–16–04; 8:45 am]

BILLING CODE 4910–15–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095–AB41

Records Management; Unscheduled Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: NARA is seeking comments from Federal agencies and the public on a proposed revision to our regulations to allow unscheduled records to be transferred to records storage facilities. These changes would allow agencies to transfer unscheduled records in a timely manner.

DATES: Submit comments on or before November 16, 2004.

ADDRESSES: NARA invites interested persons to submit comments on this proposed rule. Please include ''Attn: 3095–AB41'' and your name and mailing address in your comments. Comments may be submitted by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: Send comments to *comments@nara.gov.* If you do not receive a confirmation that we have received your e-mail message, contact Cheryl Stadel-Bevans at (301) 837–3021.
- Fax: Submit comments by facsimile transmission to (301) 837–0319.
- Mail: Send comments to Regulations Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.
- Hand Delivery or Courier: Deliver comments to 8601 Adelphi Road, College Park, MD.

FOR FURTHER INFORMATION CONTACT: Cheryl Stadel-Bevans at telephone number (301) 837–3021 or fax number (301) 837–0319.

SUPPLEMENTARY INFORMATION:

Background on Proposed Regulation Changes

As part of NARA's Records Management Initiatives to redesign Federal records management, NARA has determined that Federal agencies should be allowed to transfer unscheduled records to records storage facilities after notification to NARA but in advance of submitting a Standard Form (SF) 115 to schedule the records. The proposed rule does not change the prohibition on destruction of records without an approved SF 115. The existing regulation requires agencies to develop and submit the SF 115 prior to transferring records into a records storage facility. We believe that the proposed change would facilitate agency operations.

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB). As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on a substantial number of small entities because this rule applies to Federal agencies. This proposed rule does not have any federalism implications.

List of Subjects in 36 CFR Part 1228

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend chapter XII of title 36 of the Code of Federal Regulations as follows:

PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority for Part 1228 continues to read as follows:

Authority: 44 U.S.C. chs. 21, 29, and 33.

2. Amend § 1228.152 by revising the entry in the table for item (2)(ii) to read as follows:

§ 1228.152 Under what conditions may Federal records be stored in records storage facilities?

* * * * *

Type of record	Conditions
* * * * *	
(2) * * *	(i) * * *.
	(ii) Also requires prior notification to NARA (see § 1228.154(b)).

* * * * *

3. Amend § 1228.154 by revising paragraphs (b) and (c)(1)(vii) to read as follows:

§ 1228.154 What requirements must an agency meet when it transfers records to a records storage facility?

* * * * *

(b) To transfer unscheduled records, notify NARA (NWML) in writing prior to the transfer. The notification must identify the records storage facility and include a copy of the information required by paragraph (c) of this section.

* * * * *

(c) * * *