will be accepted, individuals are encouraged to submit their nominations through consumer organizations as defined in paragraph (c)(3) of this section. Nominations of qualified persons for general consideration as nonvoting members of unspecified advisory committees or subcommittees may be made at any time. All nominations are to be submitted in writing to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 1503, Silver Spring, MD 20993.

* * * * *

(3) The Advisory Committee Oversight and Management Staff will compile a list of organizations whose objectives are to promote, encourage, and contribute to the advancement of consumer education and to the resolution of consumer problems. All organizations listed are entitled to vote upon the nominees. The list will include organizations representing the public interest, consumer advocacy groups, and consumer/health branches of Federal, State, and local governments. Any organization that meets the criteria may be included on such list on request.

(4) The executive secretary, or other designated agency employee, will review the list of nominees and select three to five qualified nominees to be placed on a ballot. Names not selected will remain on a list of eligible nominees and be reviewed periodically by the Advisory Committee Oversight and Management Staff to determine continued interest. Upon selection of the nominees to be placed on the ballot, the curriculum vitae for each of the nominees will be sent to each of the organizations on the list complied under paragraph (c)(3) of this section, together with a ballot to be filled out and returned within 30 days. After the time for return of the ballots has expired, the ballots will be counted and the nominee who has received the highest number of votes will be selected as the nonvoting member representing consumer interests for that particular advisory committee or subcommittee. In the event of a tie, the Commissioner will select the winner by lot from among those tied for the highest number of votes

(5) * * *

(ii) If none of the nominees on the original ballot is willing to serve, or if there was only one nominee on the original ballot, the Advisory Committee Oversight and Management Staff will contact by telephone eligible individuals whose names have been submitted in the past as candidates for membership as representatives of consumer interests. A list of persons who are interested in serving on an advisory committee will then be prepared. The curricula vitae of these persons, together with a ballot, will be sent to a representative number of consumer organizations that have been determined to be eligible to vote for consumer representatives in accordance with paragraph (c)(3) of this section. After 4 days have elapsed, the Advisory Committee Oversight and Management Staff will contact the consumer organizations by telephone and elicit their votes. The candidate who has received the highest number of votes will be selected. In the event of a tie, the Commissioner will select the winner by lot from among those tied for the highest number of votes.

* * * * *

Dated: March 23, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–6861 Filed 3–26–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0143 (Formerly Docket Nos. D01–05–094 and Docket No. USCG–01–06–052)]

RIN 1625–AA11

Regulated Navigation Area: Narragansett Bay, RI and Mount Hope Bay, RI and MA, Including the Providence River and Taunton River

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule modifies provisions contained in the existing Regulated Navigation Area (RNA) that were originally implemented to address severe shoaling in the Providence River. Based on recommendations made in several public comments responding to the notice of proposed rulemaking (NPRM), this rule includes additional navigation safety measures for vessels transiting Narragansett Bay, namely a requirement to make periodic Safety Signal (SECURITE) calls at certain points along the transit, and a requirement to maintain a minimum underkeel clearance to prevent groundings. Based on recommendations made in several other comments, some measures proposed in the NPRM for the Taunton River and Mount Hope Bay in the vicinity of the two Brightman Street bridges have not been adopted and are therefore not included in this final rule.

DATES: This rule is effective April 28, 2010.

ADDRESSES: Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2009–0143 and are available online by going to *http://www.regulations.gov,* inserting USCG–2009–0143 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Edward G. LeBlanc at Coast Guard Sector Southeastern New England; telephone 401–435–2351, e-mail *Edward.G.LeBlanc@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 21, 2005, the Coast Guard issued a **Federal Register** notice and request for comments at 70 FR 70052, under the heading "Navigation and Waterways Management Improvements, Providence River Regulated Navigation Area, Narragansett Bay, Rhode Island and Mt. Hope Bay, MA." The notice was prompted primarily by two events: (1) The U.S. Army Corps of Engineers (USACE) was nearing completion of a major maintenance dredging project in the Providence River, and (2) enactment of Public Law 109–59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) signed on August 10, 2005 by President Bush. Section 1948 of SAFETEA–LU resulted in retention of the old Brightman Street Bridge across the Taunton River between Somerset and Fall River, MA. The proximity of the old and new Brightman Street bridges to each other, which will both remain in place as a result of SAFETEA–LU, prompted formal adoption of the navigation safety measures that are currently practiced either voluntarily or through Captain of the Port (COTP) orders to particular commercial vessels.

We received three public comments in response to our November 2005 notice. On May 26, 2006, we published a **Federal Register** notice of proposed rulemaking at 71 FR 30108, under the heading "Regulated Navigation Area: Narragansett Bay, RI and Mount Hope Bay, MA, including the Providence River and Taunton River". We received six comments in response to the NPRM, including requests from the Rhode Island Attorney General and the city of Fall River, Massachusetts, that the Coast Guard extend the public comment period and hold public hearings on the regulations. On October 6, 2006, we published a notice extending the public comment period and announcing two public meetings in the **Federal Register** at 71 FR 57893, under the heading "Navigation and Waterways Management Improvements, Providence River Regulated Navigation Area, Narragansett Bay, Rhode Island and Mt. Hope Bay, MA". Public meetings were subsequently held on October 16, 2006 in Fall River, and on October 19, 2006, in Warwick, Rhode Island. The public comment period ended on November 1, 2006. Thirteen months later in December 2007, USACE completed its major maintenance dredging of the Providence River, restoring the waterway to its authorized controlling depth of 40 feet. Completion of the dredging project removed the need for certain navigation safety measures implemented in 1994 to address shoaling in the Providence River, and also prompted adoption of this final rule. The removal of the navigation safety measures is discussed below.

Background and Purpose

1. *Providence River:* On May 1, 1994, the Coast Guard established a Regulated Navigation Area in the Providence River, Providence, Rhode Island, described at 33 CFR 165.122 (59 FR 18487, April 19, 1994). It was designed to protect the maritime community from hazards to navigation resulting from the extreme shoaling that occurred in the northern section of the Providence River Channel.

Generally, the existing RNA imposes certain navigation safety measures in various segments of the Providence River including, among other requirements, a maximum draft of 38 feet for most vessels, one-way vessel traffic in certain portions of the river, and a requirement that vessels over 65 feet in length make periodic SECURITE calls via VHF radio. In September 2005, USACE substantially completed a major maintenance dredging of the Providence River to remove most shoaling and restore the channel to a depth of 40′ at Mean Lower Low Water (MLLW), and a minimum channel width of 600′. While most shoaling was removed, there remained nine rock mounds that required blasting (as opposed to dredging) and removal. Those nine rock mounds were not blasted and removed until September 2007, and a final "Results of Survey" was issued by USACE on December 14, 2007.

The restoration of the Providence River Channel to the above described dimensions provides sufficient depth and width for commercial and recreational vessels of appropriate length, breadth, and draft, to navigate safely within the channel. Consequently, because the original conditions that warranted the RNA no longer exist, we are making modifications as described in this final rule.

We are also adopting some navigation safety measures that were recommended in the public comments. These measures include maintaining an under-keel clearance equal to at least 10% of a vessel's draft when not assisted by tugs, and a requirement for certain vessels to make SECURITE calls at certain points during their transit to notify other waterway users of their intentions.

2. *Taunton River:* Construction of a new Brightman Street bridge (the new bridge) across the Taunton River approximately 1100 feet north of the existing Brightman Street Bridge (the old bridge) has presented navigation challenges, particularly for larger self-propelled commercial vessels. The opening of the old bridge is only 98 feet while the opening of the new bridge is 200 feet, and the openings of the two bridges are not aligned with each other. This configuration requires commercial vessels to transit through one opening, stop, be pushed transversely (sideways) by tugs for approximately 100 feet to align with the next bridge opening, and then proceed forward. Local marine pilots, working with operators of commercial vessels delivering coal and oil to the electric power plant north of the bridges, have devised a method of transiting the two bridges that involves the use of a marine pilot, three tugs (in most cases), and navigating only in daylight, only when steady winds are no greater than 12 knots and wind gusts are no greater than 15 knots, and transiting outbound only on a flood tide. These voluntary measures were initially intended to be temporary and employed only until the old bridge was demolished after completion of the new bridge, in accordance with the bridge construction permit issued by the Coast Guard on December 5, 1997.

However, section 1948 of SAFETEA–LU prohibits the expenditure of Federal funds for the demolition of the old bridge. It states: "Notwithstanding any Federal law, regulation, or policy to the contrary, no Federal funds shall be obligated or expended for the demolition of the existing Brightman Street Bridge connecting Fall River and Somerset, Massachusetts, and the existing Brightman Street Bridge shall be maintained for pedestrian and bicycle access, and as an emergency service route." We believe the practical effect of this law is that the old bridge will remain in place.

The unique maneuvers required to navigate safely between these two bridges are of concern to the Coast Guard; however, the safety measures proposed in the NPRM are the ones currently being practiced by the maritime community either voluntarily or through COTP orders to specific commercial vessels. Further, the sole commercial entity (a coal-fire power plant) north of the two Brightman Street bridges which received bulk cargo (coal) via ship or barge has shut down, further reducing marine traffic through the bridges. Consequently, the Coast Guard believes further regulation is not necessary as the current system in place provides an appropriate and effective method to address the navigation safety issues related to the fewer (and smaller) commercial vessels that may now transit the Taunton River and Brightman Street bridges. The navigation safety measures are discussed below.

Discussion of Comments and Changes

Three comments were submitted in response to our November 2005 notice and six comments were submitted in response to our May 2006 NPRM. After we extended the NPRM comment period, and in response to our two October 2006 public meetings, we received 57 additional written and 106 verbal comments, respectively. Most comments expressed opposition to a proposed liquefied natural gas (LNG) waterfront facility on the Taunton River in Fall River, MA, but few comments addressed the current RNA or suggested any specific navigation safety measures.

Several comments in particular captured the sentiment of most. In one comment, the writer was "appalled that the United States Coast Guard is even contemplating modifying the existing Regulated Navigation Area in Providence River, Narragansett Bay, and Mount Hope Bay which would then allow LNG tankers to use these waterways." Another comment suggested that the proposed regulations were "inextricably linked to the

[Weaver's Cove Energy] LNG vessel transit plan * * *." A third comment suggested that the proposed regulations were "creative maneuvers to bring LNG tankers in Fall River." A commenter at a public meeting stated that the proposed regulations would allow LNG passage to Fall River "by right."

However, as stated by the Captain of the Port at the October 2006 public meetings, "it is important to note that these proposed regulations are intended to address navigation safety issues as they currently exist for vessels and mariners currently using the waterways of Narragansett Bay and Mount Hope Bay, such as the ships and barges carrying coal and occasional fuel oil that transit through the Brightman Street bridges some 50 times each year in connection with deliveries to the power plant in Somerset."

As stated earlier in this preamble, the unique maneuvers required to navigate safely between these two bridges concern the Coast Guard. But the safety measures proposed in the NPRM are currently being practiced by the maritime community either voluntarily or through Captain of the Port orders to specific commercial vessels. And, the sole commercial entity (a coal-fire power plant) north of the two Brightman Street bridges which received bulk cargo (coal) via ship or barge has shut down, further reducing marine traffic through the bridges. Consequently, the Coast Guard believes further regulation for the Taunton River and Brightman Street Bridges is not necessary as the current system in place provides an appropriate and effective method to address the navigation safety issues related to the fewer (and smaller) commercial vessels that may now transit the Taunton River and Brightman Street bridges.

Specifically, the NPRM included proposed maximum weather parameters and a proposed requirement for assist tugs for commercial vessels transiting through the two Brightman Street bridges. Those proposed requirements have been removed. Maximum weather parameters are currently defined, when necessary, via a Captain of the Port order. Tug assistance is currently dictated by either the Federal or state licensed pilot directing a commercial vessel through the two Brightman Street bridges, or via a Captain of the Port order on a case by case basis as conditions dictate. The Coast Guard believes those methods are currently sufficient to provide the appropriate level of safety to ensure the safe navigation of vessels through the waterway.

One comment addressed the condition of the fendering system at the old Brightman Street Bridge. The Massachusetts Highway Department, the bridge owner, completed a major renovation project in September 2007 that restored all of the bridge fendering to its original design specifications.

Two comments addressed the physical condition of the old bridge and the navigation concerns related to the waterway configuration resulting from the proximity of the old and new bridges. Specifically, there is only 1100 feet of distance between the bridges, the opening of the old bridge is only 98 feet while the opening of the new bridge is 200 feet, and the openings of the two bridges are not aligned with each other.

This configuration requires a vessel to transit through one opening, stop, be pushed transversely (sideways) by tugs for approximately 100 feet to align with the next bridge opening, and then proceed forward.

One comment stated that it "strongly advocates physical demolition and removal of the existing [Brightman Street] bridge * * *." Another comment discussed at some length the need to demolish the old bridge once the new bridge was completed. Those comments are more appropriately addressed via the mechanisms contemplated by 33 CFR part 116, "Alterations of Unreasonably Obstructive Bridges." That part describes the procedures by which the Coast Guard determines a bridge to be an unreasonable obstruction to navigation. Consequently, the Commander, First Guard District, forwarded a letter on April 3, 2006, to Commandant (G–PWB) (currently CG–5411), Coast Guard Headquarters, Washington, DC, to begin the 33 CFR part 116 process regarding the old bridge. On May 8, 2007, the Coast Guard issued a "Navigation Review" regarding the old and new Brightman Street bridges which found, in part, that retention of the old bridge "makes navigation more difficult" in that area of the Taunton River, but recommended no specific action. As a follow-up to this report, the Coast Guard's Office of Bridge Administration will undertake further investigation in accordance with the procedures set forth in 33 CFR part 116. Any such effort, however, is separate and apart from this rulemaking.

One comment suggested:

(1) A reduction in several voice reporting requirements via VHF radio in Narragansett Bay and the Providence River;

(2) Removal of the one-way traffic restriction in the Providence River;

(3) Addition of a voice reporting requirement via VHF radio for vessels in Narragansett Bay either enroute to or from Mount Hope Bay; and

(4) Addition of an under-keel clearance requirement for deep draft vessels transiting Narragansett Bay.

The major dredging project completed by USACE in December 2007 has reduced the need for voice reporting requirements in Narragansett Bay and the Providence River, and removed the need for one-way traffic restrictions in the river. Consequently, the commenter's first two recommendations have been incorporated into this rule.

We believe that voice reporting requirements recommended in the aforementioned comment are prudent and should enhance navigation safety. Accordingly, those reporting requirements are also included in this rule.

The commenter's recommendation for an under-keel clearance requirement was also considered. In the NPRM for this rule, specific maximum drafts were proposed. The maximum drafts varied according to the channel depth in which a vessel was navigating. One comment to the NPRM (the only comment addressing the draft issue) recommended that a blanket minimum under-keel clearance requirement of 10% of a vessel's draft be maintained, which would allow a safety factor to account for variables such as wave height, squat, accuracy of tidal predictions, water density, etc. We re-examined the issue of under-keel clearance and found that under-keel clearance standards are in place in at least one other major port (Los Angeles/Long Beach). Additionally, Federal regulations mandating under-keel clearance for single-hull tank ships (including those calling on Narragansett and Mount Hope bays) already exist at 33 CFR 157.455. We agree that a blanket under-keel clearance requirement is less confusing than the variable draft restrictions proposed in the NPRM. Therefore, we have adopted a standard under-keel clearance requirement in this final rule.

One comment suggested that the Coast Guard's determination that this rulemaking is categorically excluded from further environmental review under the National Environmental Policy Act (NEPA) was incorrect, and that a full NEPA analysis was required. It argued that the proposed regulations create "substantial controversy" because they are "inextricably linked" to the Weaver's Cove LNG proposal.

Another comment disagreed with our finding that the proposed regulations would "not have a substantial economic impact" on small entities. It cited a purported lack of economic analysis of the impact of ship transits with "volatile cargo" and the impact(s) to maritime

enterprise of security zones around LNG vessels transiting through Narragansett Bay.

We disagree that further environmental or economic analysis is required. The Coast Guard did conduct a NEPA review of this rule and determined that no additional analysis was necessary based upon the findings that any foreseeable impacts would not be significant. Further economic analysis is not required because the effect of this rule would not be significant: It only removes some more restrictive navigation safety measures, adds a standard under-keel clearance requirement, and modifies already-existing voice reporting requirements in the affected waterways.

This final rule makes the following modifications to the current RNA at 33 CFR 165.122:

1. Remove certain navigation restrictions and minimum visibility requirements in the Providence River, especially for vessels with drafts of 35 feet or greater;
2. Remove the one-way-traffic restriction for vessels over 65 feet in length that currently exists in certain areas of the Providence River;
3. Reduce the number of required SECURITE calls while transiting Narragansett Bay and the Providence River; and
4. Define minimum under-keel clearance requirements for vessels transiting within the RNA.

This final rule was prompted primarily by the completion of a major dredging project in the Providence River. Navigation safety measures implemented in 1994 to address the shoaling in that river are no longer required. This final rule is promulgated under the authority of 33 U.S.C. 1321, pursuant to the re-delegation of that authority contained in 33 CFR 1.05–1(g)(4). Vessels or persons violating this section may be subject to the civil and criminal penalties set forth in 33 U.S.C. 1232.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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.

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 effect of this rule would not be significant as it removes some more restrictive navigation safety measures, adds a standard under-keel clearance requirement, and modifies already-existing voice reporting requirements in the affected waterways. This rule will be entered into the local notice to mariners, and maritime advisories will be broadcast.

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 will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels 65 feet in length or greater transiting the waterways of Narragansett Bay and the Providence River.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule only modifies current regulations and/or codifies current navigation practices. Because of the changes to the previously proposed regulatory text discussed above, this rule does not impose new requirements which would affect vessels' schedules or their ability to transit the RNA, nor does it require the purchase of any new equipment or the hiring of any additional crew.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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 (adjusted for inflation) or more in any one year. Though this rule does 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 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

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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, 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 this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction. This rule fits the category selected from paragraph (34)(g), as it establishes a Regulated Navigation Area. An environmental analysis checklist 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, Security measures, and 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, 3306, 3703; 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. Revise § 165.122 to read as follows:

§ 165.122 Regulated Navigation Area: Navigable waters within Narragansett Bay and the Providence River, Rhode Island.

(a) *Description of the regulated navigation area (RNA).* The Regulated Navigation Area (RNA) encompasses all of the navigable waters of Narragansett Bay north of the COLREGS demarcation line and west of the Mt. Hope Bridge, and all of the navigable waters of the Providence River from Conimicut Point to the Providence hurricane barrier.

(b) *Regulations.* (1) All commercial vessels must:

(i) Maintain a minimum 10% of the vessel's draft as an under-keel clearance when not assisted by tugs, or when not moored at an assigned berth. Under-keel clearance is the minimum clearance available between the deepest point on the vessel and the bottom of the waterway, in calm water.

(ii) Have at least one mile of visibility to transit the Providence River between 41°43′01.4″ N; 071°20′41.7″ W (Conimicut Light (LLNR 18305)) and 41°47′38.8″ N; 071°22′46.7″ W (Channel Light 42 (LLNR 18580)).

(2) Vessels over 65 feet in length inbound for berths in the Providence River are required to make Safety Signal (SECURITE) calls on both VHF channels 13 and 16 at the following geographic locations:

(i) Pilot Boarding Area;
(ii) Abeam of Castle Hill;
(iii) Abeam of Sandy Point;
(iv) Abeam of 41°43′01.4″ N; 071°20′41.7″ W (Conimicut Point Light (LLNR 18305));
(v) Abeam of Sabin Point; and
(vi) Upon mooring.

(3) Vessels over 65 feet in length inbound for berths in Mount Hope Bay or in the Taunton River are required to make SECURITE calls on both VHF channels 13 and 16 at the following geographic locations:

(i) Pilot Boarding Area;
(ii) Abeam of Castle Hill;
(iii) Abeam of Sandy Point; and
(iv) At position 41°39′32.4″ N; 071°14′ 02.6″ W (Mount Hope Bay Junction Lighted Gong Buoy "MH" (LLNR 18790)).

(4) Vessels over 65 feet in length outbound for sea down the Providence River Channel shall make SECURITE calls on VHF channels 13 and 16 at the following geographic locations:

(i) One-half hour prior to departure from the berth;
(ii) At departure from the berth;
(iii) Abeam of Sabin Point;
(iv) Abeam of Gaspee Point; and
(v) Abeam of position 41°43′01.4″ N; 071°20′41.7″ W (Conimicut Light (LLNR 18305)).

(5) Vessels over 65 feet in length outbound for sea down from Mount Hope Bay through Narragansett Bay are required to make SECURITE calls on VHF channels 13 and 16 at the following geographic locations:

(i) One-half hour prior to departure from the berth;
(ii) At departure from the berth; and
(iii) At position 41°39′32.4″ N; 071°14′ 02.6″ W (Mount Hope Bay Junction Lighted Gong Buoy "MH" (LLNR 18790)).

(6) Vessels 65 feet and under in length, and all recreational vessels, when meeting deep draft commercial vessel traffic in all locations within this RNA shall keep out of the way of the oncoming deep draft commercial vessel. Nothing in this regulation, however, relieves a vessel of any duty prescribed in the Inland Navigation Rules (set forth in 33 U.S.C. 2005 *et seq.*)

(7) The Captain of the Port (COTP) Southeastern New England may authorize a deviation from these regulations. Parties wishing to request a deviation must do so in advance by contacting the COTP Southeastern New England, at 508–457–3211, or via VHF Channel 13 (156.7 MHz), or VHF channel 16 (156.8 MHz). Any person or vessel receiving permission from the

COTP to deviate from these regulations must comply with any specific instructions provided by the COTP.

(c) *Enforcement.* Violations of this RNA should be reported to the COTP Southeastern New England at 508–457–3211. Persons found in violation of these regulations may be subject to civil or criminal penalties as provided for in 33 U.S.C. 1232.

Dated: March 6, 2010.

Joseph L. Nimmich,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2010–6859 Filed 3–26–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2007–0526; FRL–9130–8]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revision To Control Volatile Organic Compound Emissions in the Houston/Galveston/Brazoria 8-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Texas State Implementation Plan (SIP). The revision adds additional requirements to control volatile organic compound (VOC) emissions from storage tanks, transport vessels and marine vessels in the Houston/Galveston/Brazoria (HGB) 1997 8-hour ozone nonattainment area, which consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties. Specifically, this revision subjects owners or operators of VOC storage tanks, transport vessels, and marine vessels located in the HGB 1997 8-hour ozone nonattainment area to more stringent control, monitoring, and recordkeeping requirements. EPA is approving the SIP revision because it will help lower ozone levels in the HGB area by reducing VOC emissions. EPA is approving the revision pursuant to section 110 and part D of the Clean Air Act (CAA).

DATES: This direct final rule will be effective May 28, 2010 without further notice unless EPA receives relevant adverse comments by April 28, 2010. If adverse comments are 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: Submit your comments, identified by Docket No. EPA–R06–OAR–2007–0526, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.*
- Follow the online instructions for submitting comments.
- *EPA Region 6* "*Contact Us*" *Web site: http://epa.gov/region6/r6coment.htm.* Please click on "6PD (Multimedia)" and select "Air" before submitting comments.
- *E-mail:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7242.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket No. EPA–R06–OAR–2007–0526. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection during official business hours, by appointment, at the Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Carl Young, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–6645; fax number 214–665–7263; e-mail address *young.carl@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we", "us", or "our" is used, we mean the EPA.

Outline

I. What Action Is EPA Taking?
II. What Is a SIP?
III. What Is the Background for This Action?