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

Taking of Private Property

This rule will not effect 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 might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation because the temporary security zone will not last longer than one week in duration. A ''Categorical Exclusion Determination'' is 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, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Temporarily add § 165.T13–004 to read as follows:

§ 165.T13–004 Security Zone; Portland Rose Festival on Willamette River.

(a) *Location.* The following area is a security zone: All waters of the Willamette River, from surface to bottom, between the Hawthorne and Steel bridges and underneath these bridges.

(b) *Effective period.* This section is effective from Sunday, June 13, 2004, until the last vessel departs the Waterfront Park on Tuesday, June 15, 2004.

(c) *Regulations.*

(1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Portland or his designated representatives. Section 165.33 also contains other general requirements.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port on VHF channel 16 (156.8 MHz) or VHF channel 22A (157.1 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: May 18, 2004.

P.D. Jewell,

Captain, U.S. Coast Guard, Captain of the Port, Portland.

[FR Doc. 04–12007 Filed 5–26–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD11 04–001]

RIN 1625–AA11

Regulated Navigation Area; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and Connecting Waters, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is designating San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and the connecting waters as a Regulated Navigation Area for the purpose of prohibiting vessels carrying Liquefied Hazardous Gas (LHG) from anchoring in the San Francisco Bay area and requiring them to proceed directly to their intended offload facility. By establishing these requirements, this rule limits the amount of time vessels carrying LHG spend in the heavily populated San Francisco Bay area in order to reduce the chances that vessels carrying LHG could be subject to a terrorist attack or involved in an accident within these waters.

DATES: This rule is effective June 28, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD11 04–001, and are available for inspection or copying at the Waterways Branch of the Marine Safety Office San Francisco Bay, Coast Guard

Island, Alameda, California, 94501, 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, at (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 19, 2004, we published a notice of proposed rulemaking (NPRM) entitled ''Regulated Navigation Area; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and Connecting Waters, CA'' in the **Federal Register** (69 FR 7717). In that NPRM, we proposed to designate the listed waters as a Regulated Navigation Area for the purposes of prohibiting vessels carrying LHG from anchoring, requiring them to proceed directly to their intended offload facility, and thereby limiting the amount of time these vessels remained within the heavily populated San Francisco Bay area. We did not receive any letters commenting on the proposed rule. No public hearing was requested, and none was held. We did make one small change in this final rule to expand the definition of LHG to include the hazards normally associated with liquefied hazardous gas.

Penalties for Violating the Regulated Navigation Area

Vessels or persons violating the precepts of this regulated navigation area will 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 regulated navigation area 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 up to 6 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, also faces imprisonment up to 12 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, and imprisonment up to 10 years.

The Captain of the Port will enforce this regulated navigation area and may enlist the aid and cooperation of any Federal, State, county, municipal, or private agency to assist in the enforcement of the regulation.

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).

Additionally, 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. The 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 and ongoing intention to conduct armed attacks on U.S. interests worldwide.

Collectively, the items noted in the previous discussion represent a hazardous condition threatening the safety of the port and its facilities as well as other users of the waterway. Further, due to increased awareness that future terrorist attacks are possible, the Coast Guard as lead federal agency for maritime homeland security, has determined that the District Commander must have the means to deter threats to the port while sustaining the flow of commerce. A Regulated Navigation Area is a tool available to the Coast Guard that may be used to control vessel traffic through ports, harbors, or other waters.

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 regulated navigation areas, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish regulated navigation areas 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 and safety concerns and to take steps to prevent a terrorist incident involving vessels carrying Liquefied Hazardous Gas (LHG), the Coast Guard is designating San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and the connecting waters as a Regulated Navigation Area for the purpose of prohibiting vessels carrying LHG from anchoring or unnecessarily remaining within these areas. Since September of 2001, as part of the efforts to increase the safety and security of the Port of San Francisco Bay, the Captain of the Port (COTP) has been issuing COTP Orders to prohibit LHG carrying vessels from anchoring prior to discharging their cargo. As such, this rule codifies the established policy of prohibiting LHG carrying vessels from anchoring in San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and the connecting waters.

This regulated navigation area is needed to protect the public, ports, and the environment from the potential damage that would be caused if an LHG vessel were to become the target of a subversive act or be involved in an accident or other event of a similar nature. Prohibiting vessels carrying LHG from anchoring unless specifically authorized to do otherwise by the Captain of the Port or his designated representative will limit the amount of time these vessels are underway in the San Francisco Bay area and reduce the

associated potential hazards posed by their cargo. Due to heightened security concerns and the catastrophic impact a terrorist attack on a vessel carrying LHG would have on the vessel, crew, surrounding area and the public, the regulations established by this rule are prudent for this location.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

Although this regulation prohibits LHG vessels from anchoring within the regulated navigation area and requires them to proceed directly to their intended offload facility, the effect of this regulation is not significant because vessels carrying LHG have been directed by COTP orders not to anchor within San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and connecting waters in California since September of 2001. Therefore, this rule is a continuation of the established policy of prohibiting LHG vessels from anchoring in the San Francisco Bay area, and having it published simply removes the need to issue a COTP order each time an LHG vessel enters the bay. In addition, LHG vessels will be allowed to anchor on a case-by-case basis with permission of the Captain of the Port, or his designated representative.

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 because the rule only effects LHG vessels within San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and connecting waters in California, it allows these vessels to complete their intended purpose of delivering LHG cargo, and the rule is a continuation of a policy that has been in effect since September of 2001.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), 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 1–800–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule 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 might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

Environment

We have analyzed this 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 rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a Regulated Navigation Area. An ''Environmental Analysis Check List'' and a draft ''Categorical Exclusion Determination'' (CED) will be

available in the docket where located under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record-keeping requirements, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.1185, to read as follows:

§ 165.1185 Regulated Navigation Area; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and connecting waters in California.

(a) *Location.* All waters of San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and connecting waters in California are a Regulated Navigation Area.

(b) *Definitions.* ''Liquefied hazardous gas (LHG)'' is a liquid containing one or more of the products listed in Table 127.005 of 33 CFR 127.005 that is carried in bulk on board a tank vessel as a liquefied gas product. The hazards normally associated with these products include toxic or flammable properties or a combination of both.

(c) *Regulations.* All vessels loaded with a cargo of liquefied hazardous gas (LHG) within this Regulated Navigation Area must proceed directly to their intended cargo reception facility to discharge their LHG cargo, unless:

(1) The vessel is otherwise directed or permitted by the Captain of the Port. The Captain of the Port can be reached at telephone number (415) 399–3547 or on VHF–FM channel 16 (156.8 MHz). If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(2) The vessel is in an emergency situation and unable to proceed as directed in paragraph (a) of this section without endangering the safety of persons, property, or the environment.

Dated: May 17, 2004.

Kevin J. Eldridge,

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

[FR Doc. 04–12008 Filed 5–26–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AD00

Amistad National Recreation Area, Personal Watercraft Use

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule designates areas where personal watercraft (PWC) may be used in Amistad National Recreation Area, Texas. This rule implements the provisions of the National Park Service (NPS) general regulations authorizing park areas to allow the use of PWC by promulgating a special regulation. The NPS Management Policies 2001 directs individual parks to determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, and overall management objectives.

EFFECTIVE DATE: This rule is effective May 27, 2004.

ADDRESSES: Mail inquiries to the Superintendent, Amistad National Recreation Area, HRC 3 Box 5J, Del Rio, Texas 78840 or e-mail to *amis@den.nps.gov.*

FOR FURTHER INFORMATION CONTACT: Kym Hall, Special Assistant, National Park Service, 1849 C Street, NW., Room 3145, Washington, DC 20240. Phone: (202) 208–4206. E-mail: *Kym_Hall@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Personal Watercraft Regulation

On March 21, 2000, the National Park Service published a regulation (36 CFR 3.24) on the management of personal watercraft (PWC) use within all units of the national park system (65 FR 15077). This regulation prohibits PWC use in all national park units unless the NPS determines that this type of water-based recreational activity is appropriate for the specific park unit based on the legislation establishing that park, the park's resources and values, other visitor uses of the area, and overall management objectives. The regulation banned PWC use in all park units effective April 20, 2000, except that a grace period was provided for 21 lakeshores, seashores, and recreation areas. The regulation established a 2-year grace period following the final rule publication to provide these 21 park units time to consider whether PWC use should be allowed.

Description of Amistad National Recreation Area

Amistad National Recreation Area lies along the United States-Mexico border near Del Rio, Texas. The unit consists of 57,292 acres of land and water and is a man-made reservoir resulting from the construction of a dam at the confluence of Devils River and the Rio Grande. The reservoir is 1,117 feet above sea level at the normal conservation level, and the park boundary continues 83 miles northwest up the Rio Grande, 25 miles north up the Devils River, and 14 miles north up the Pecos River. The park boundary varies but is generally at the elevation mark of 1,144.3 feet above mean sea level, and the lake level fluctuates in relation to this. The international boundary between the United States and Mexico falls in the middle of the Rio Grande River. The International Boundary and Water Commission has placed buoys in the center of the channel for the first 28 miles but the reservoir is otherwise unmarked. The Mexico side of the reservoir does not have any protected status, thus the NPS does not generally consult with Mexican officials on matters such as boating management in a formal sense.

Amistad is home to a rich archeological record and world-class rock art. Within or immediately adjacent to park boundaries are four archeological districts and one site listed on the National Register of Historical Places.

Amistad National Recreation Area supports a wide variety of boating activities throughout the year, including PWC use, powerboating, waterskiing, houseboating, boat fishing, sightseeing by vessel, sailboating, sailboarding, canoeing, and kayaking. Amistad receives over 1,000,000 visitors a year and issues approximately 5,000 lake use permits annually.

Purpose of Amistad National Recreation Area

The purpose of Amistad National Recreation Area is to provide visitors and neighbors with opportunities and resources for safe, high-quality public outdoor recreation and use of Lake Amistad; to develop and maintain facilities necessary for the care and accommodation of visitors; and to support the concepts of stewardship and protection of resources and environmental sustainability by practicing and interpreting their application in a unit of the national park system.