wake speed or at the minimum speed necessary to maintain steerage.

Dated: December 2, 2008.

J.P. Currier,

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

[FR Doc. E9–2310 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0121]

RIN 1625–AA11

''McCormick & Baxter'' Regulated Navigation Area, Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area on the Willamette River, Portland, Oregon. This action is necessary to preserve the integrity of the engineered pilot cap placed over contaminated sediments as part of an Environmental Protection Agency (EPA) Superfund cleanup action at the McCormick & Baxter Creosoting Company Superfund Site. This rule is needed to prohibit activities that would cause disturbance of pilot cap material, which was placed to isolate and contain underlying contaminated sediment.

DATES: This rule is effective March 6, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0121 and are available online by going to *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2008–0121 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: 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 and U.S. Coast Guard Sector Portland, 6767 North Basin Ave., Portland, OR 97217, between 8 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call MST1 Jaime Sayers, U.S. Coast Guard Sector Portland, Waterways Management Branch, telephone 503–240–9300. 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 June 3, 2008, we published a notice of proposed rulemaking (NPRM) entitled ''McCormick and Baxter Regulated Navigation Area, Willamette River, Portland, OR'' in the **Federal Register** (73 FR 31652). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The McCormick & Baxter Creosoting Company operated between 1944 and 1991, treating wood products with creosote, pentachlorophenol and inorganic (arsenic, copper, chromium, and zinc) preservative solutions. Historically, process wastewaters were discharged directly to the Willamette River, and other process wastes were dumped in several areas of the Site. Significant concentrations of wood-treating chemicals have been found in soil and groundwater at the site and in river sediments adjacent to the Site. The EPA listed the Site on the National Priorities List (NPL) in June 1994 based on information collected by DEQ between September 1990 and September 1992. The EPA also designated the DEQ as the lead agency for implementing the selected remedy while funding for remedial design and construction was primarily provided by EPA. The DEQ implemented a number of interim removal measures between 1992 and 1994, including plant demolition, sludge and soil removals, and extraction of creosote from the groundwater aquifers. The Record of Decision (ROD) was issued by WPA and DEQ in April 1996 after considering public comments on the Proposed Cleanup Plan. The remedy addressed contaminated ground water, soil and sediment. A component of the groundwater remedy, initiated in 1994, consisted of an automated creosote extraction and groundwater treatment system. However, due to poor product recovery and high operating costs, the automated system was discontinued in late 2000. Creosote is currently being recovered by passive and manual methods. Approximately 6,200 gallons have been recovered since 1991. A contingency groundwater remedy was implemented in the summer of 2003, with the construction of a combination steel sheet pile and soil Bentonite slurry wall surrounding 18 acres. The purpose of the barrier wall is to prevent migration of creosote to the Willamette River. Implementation of the soil remedy began in March 1999 with the removal of 33,000 tons of highly contaminated soil and debris. The soil remedy was completed in September 2005 following installation of a combination impermeable/earthen cap—the impermeable portion covering the area within the subsurface barrier wall. The sediment remedy was implemented in 2004 and primarily consisted of an armored sand cap placed over 23 acres of contaminated sediment. Construction occurred during the summers of 2004 and 2005. Sediment cap construction performed in 2005 followed construction work performed by the City of Portland to stabilize two high pressure sewer lines located within a one-acre portion of the sediment cap. In addition to the sand layer, an oil adsorptive material known as organophyllic clay was used in two creosote seep areas. To protect the cap from erosion, the sand and organophyllic clay were armored with a combination of rock and articulated concrete blocks. Erosion forces evaluated in designing the cap armoring layer included hydraulic-induced stresses due to river currents associated with a 500-year flood, vessel-induced propeller velocities from a tractor tug and various sized recreational boats, wind waves associated with a 100-year wind storm and vessel wakes associated with various boats including a 100-ft fireboat traveling at 14 knots. These forces were evaluated for river level variations due to tidal action and flood currents. Additionally, numerical modeling was used to analyze wave transformation and capping of the riverbank with two feet of topsoil, turf reinforcement matting and herbaceous vegetation. Revegitation of the capped riverbank with native trees and shrubs took place in February 2006 after the soil had been stabilized with the native grasses planted in November 2004. The DEQ has requested the issuance of this RNA in order to prohibit activities that may damage the engineered sediment cap at the Site. Although the sediment cap is designed to withstand a variety of anticipated erosional forces, the cap is susceptible to damage, such as from propeller wash, deployment of barge spuds, deployment and dragging of anchors, and grounding of large vessels. If the engineered sediment cap were to be damaged by marine activities, the contaminated sediments which underlie

the cap could be released to the river thereby posing an unacceptable threat to public health and the environment.

Discussion of Comments and Changes

No comments were received on this rule during the comment period such that no changes have been made to the rule.

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 is unnecessary. The effect of this regulation will not be significant based on the fact there will be minimal if any effect on the navigable waterway around the regulated area due to the regulated navigation area's proximity to the shore. The local maritime community will be informed of the regulated navigation area via marine informational Notice to Mariners.

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.

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 will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Willamette River. This rule will not have a significant economic impact on a substantial number of small entities because the regulated navigation area is limited in size leaving ample room for vessels to navigate around the area. Vessels engaged in commerce with the existing refueling pipeline located within the site should not be affected by this regulation in those activities but are advised to minimize potential impacts such as anchoring, wake scouring, and dragging in the vicinity of the pilot cap.

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 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of

Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.* , specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 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 under that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2. Figure 2–1, paragraph (34)(g), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves the establishing, disestablishing, or changing Regulated Navigation Areas, and security or safety zones. 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.1323 to read as follows:

§ 165.1323 Regulated Navigation Area: Willamette River Portland, Oregon Captain of the Port Zone.

(a) *Location.* The following is a regulated navigation area (RNA): All waters of the Willamette River encompassed by a line commencing at 45°34′.33″ N, 122°44′17″ W to 45°34′32″ N, 122°44′18″ W thence to 45°34′35″ N, 122°44′24″ W thence to 45°34′35″ N, 122°44′27″ W thence to 45°34′35″ N, 122°44′36″ W thence to 45°34′35″ N, 122°44′37″ W thence to 45°34′38″ N, 122°44′42″ W to 45°34′39″ N, 122°44′43″ W thence to 45°34′44″ N, 122°44′51″ W thence to 45°34′45″ N, 122°44′53″ W thence to 45°34′47'' N, 122°44′51″ W thence to 45°34′45″ N, 122°44′46″ W to 45°34′45″ N, 122°44′45″ W thence to 45°34′47″ N, 122°44′43″ W thence to 45°34′46″ N, 122°44′42″ W thence to 45°34′48″ N, 122°44′40'' W thence to 45°34′48″ N, 122°44′38″ W and along the shoreline to 45°34′46″ N, 122°44′39″ W and back to the point of origin. All coordinates reference 1983 North American Datum (NAD 83).

(b) *Regulations.* (1) Anchoring, spudding, dredging, laying cable, dragging, trawling, conducting salvage operations, operating commercial vessels of any size, and operating recreational vessels greater than 30 feet in length are prohibited in the regulated area.

(2) All vessels transiting or accessing the regulated area shall do so at no wake speed or at the minimum speed necessary to maintain steerage.

Dated: *December 2, 2008.*

J.P. Currier,

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

[FR Doc. E9–2308 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[EPA–HQ–OECA–2009–0006; FRL–8766–2]

RIN 2020–AA48

Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is issuing a direct final rule to make corrections to its rule entitled ''Procedures for Implementing the National Environmental Policy Act and Assessing the Effects Abroad of EPA Actions,'' which was published September 19, 2007. Since the final rule became effective on October 19, 2007, EPA has received inquiries about some minor inconsistencies and ambiguities in the final rule. This action involves four minor, technical corrections to the rule to address those issues. The first correction expands the definition of ''applicants'' to include those who request EPA approvals. The second change clarifies that a categorical exclusion includes vacant land. The third change corrects the text to indicate that the number of extraordinary circumstances is ten. The last change expands Subpart C to apply to EPA approvals as well as permits and assistance grants.

DATES: This rule is effective on April 6, 2009 without further notice, unless EPA receives adverse comment by March 6, 2009. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2009–0006, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: Hargrove.robert@epa.gov.*
- *Fax:* 202–564–0072, Attention: Robert Hargrove.
- *Mail:* EPA–HQ–OECA–2009–0006, Environmental Protection Agency, EPA Docket Center (EPA/DC), Enforcement and Compliance Docket and Information Center, Mailcode: 2201T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Public Reading Room, Room B102, Enforcement and Compliance Docket and Information Center, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OECA–2009–0006. 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://*