a 1997 decision by the U.S. Court of Appeals for the DC Circuit addressing ownership and control issues.

In addition, we are proposing other changes to other aspects of our regulations in response to comments we received when we sought public participation in developing this proposed rule. Our intent is to improve, clarify, and simplify current regulations as well as to reduce duplicative and burdensome permit information requirements.

Dated: February 18, 1999.

Mary Josie Blanchard,

Assistant Director, Program Support.

[FR Doc. 99–4430 Filed 2–22–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–98–004]

RIN 2115–AE84

Regulated Navigation Area, Eagle Harbor, Bainbridge Island, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to create a permanent regulated navigation area on a portion of Eagle Harbor, Bainbridge Island, Washington. This regulated navigation area would be used to preserve the integrity of a clean sediment cap placed over contamined seabed as part of the remediation process at a U.S. Environmental Protection Agency (USEPA) superfund site. This regulated navigation area would prohibit activities that would disturb the seabed, such as anchoring, dredging, or laying cable, with the exception of EPA managed remedial design, remedial action, habitat mitigation, or monitoring activities associated with the Wyckoff/Eagle Harbor Superfund Site. It would not affect transit or navigation of the area.

DATES: Comments must reach the Coast Guard on or before April 26, 1999. You may mail comments to U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134, or deliver them to room 422 at the same address between 7 a.m. & 5 p.m., Monday through Friday, except federal holidays. The telephone number is (206) 217–6232.

ADDRESSES: Comments and documents referred to in this preamble will become part of this docket and are available for inspection and copying at U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 7 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Paul M. Stocklin, Jr., c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134, (206) 217–6232.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names, addresses, identify this rulemaking (CGD13–98–004) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8 by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Office at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Wyckoff/Eagle Harbor Superfund site is located on the east side of Bainbridge Island, in Central Puget Sound, Washington. The site includes a former 40-acre wood-treating facility, contaminated sediments in adjacent Eagle Harbor, and other upland sources of contamination to the harbor, including a former shipyard.

Part of the remediation process for this site consists of covering the contaminated sediments in Eagle Harbor with a layer of clean medium-to-coarse grained sand approximately one-meter (3-feet) thick. This cap is used to isolate contaminants and limit their vertical migration and release into the water column. The cap will also limit the potential for marine organisms to reach the contaminated sediment.

Discussion of Proposed Rules

The proposed rule would establish a permanent regulated navigation area which would restrict activities such as anchoring, salvage, or dredging which would disturb the sediment cap covering the contaminated seabed. The regulation would not affect normal transit or navigation of the area. The Wyckoff facility is located on the point of land that forms the southeastern border of Eagle Harbor. The sediment cap includes approximately 2600 feet of shoreline extending approximately 2800 feet into the harbor. This area is seldom used as an anchorage site as it is in relatively unprotected water near the mouth of the harbor.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The proposed rule would not affect normal transit or navigation of the area and the only property involved is that of the former Wyckoff facility. The area is not a designated anchorage ground nor special anchorage area and was seldom used as an anchorage site as it is relatively unprotected water immediately adjacent the harbor entrance.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include 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.

This proposed rule would not affect transit or navigation of the area. Rather, it would prohibit activities that would disturb the seabed, such as anchoring, dredging, or laying cable. The area is not

a designated anchorage ground nor special anchorage area and was seldom used as an anchorage site as it is relatively unprotected water immediately adjacent the harbor entrance.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This rule contains no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Analysis

The Coast Guard has considered the environmental impact of this rule and has concluded that, under figure 2–1, paragraph (34)(g), of COMDTINST M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for regulations establishing Regulated Navigation Areas. This particular regulated navigation area is proposed for the purpose of preserving the remediation efforts at an USEPA Superfund Site. The proposed rule itself will not cause nor introduce any environmental impacts and will be transparent in all regards except for prohibiting activities which could disturb the seabed within the established boundaries of the site.

The USEPA has determined that there will be no significant environmental impact arising from the creation of an RNA designed to protect the sediment cap. The actual placement of the cap in Eagle Harbor was determined by USEPA to provide an environmental benefit to the area by allowing organisms to colonize the clean sediments of the cap (''The Proposed Plan for Cleanup of Eagle Harbor''—December 16, 1991). USEPA's authority to place the cap is expressed in a publicly available document known as a ''Removal Action Memorandum'' dated June 15, 1993, and additional information is available at the Marine Safety Office at the address under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new § 165.1309 is added to read as follows:

§ 165.1309 Eagle Harbor, Bainbridge Island, WA.

(a) *Regulated area.* A regulated navigation area is established on that portion of Eagle Harbor bounded by a line beginning at: 47° 36′ 56″ N, 122° 30′ 36″ W; thence to 47° 37′ 11″ N, 122° 30′ 36″ W; thence to 47° 37′ 25″ N, 122° 30′ 17″ W; thence to 47° 37′ 24″ N, 122° 30′ 02″ W; thence to 47° 37′ 16″ N, 122° 29′ 55″ W; thence to 47° 37′ 03″ N, 122° 30′ 02″ W; thence returning along the shoreline to point of origin. [Datum NAD 1983].

(b) *Regulations.* All vessels and persons are prohibited from anchoring, dredging, laying cable, dragging, seining, bottom fishing, conducting salvage operations, or any other activity which could potentially disturb the seabed in the designated area. Vessels may otherwise transit or navigate within this area without reservation.

(c) *Waiver.* The Captain of the Port, Puget Sound, upon advice from the USEPA Project Manager and the DNR, may, upon written request, authorize a waiver from this section if it is determined that the proposed operation supports USEPA remedial objectives, or can be performed in a manner that ensures the integrity of the sediment cap. A written request must describe the intended operation, state the need, and describe the proposed precautionary measures. Requests should be submitted in triplicate, to facilitate review by EPA, Coast Guard, and Washington State Agencies. USEPA managed remedial design, remedial action, habitat mitigation, or monitoring activities associated with the Wyckoff/Eagle Harbor Superfund Site are excluded from the waiver requirement. USEPA is required, however, to alert the Coast Guard in advance concerning any of the above-mentioned activities that may, or will, take place in the Regulated Area.

Dated: January 13, 1999.

Paul M. Blayney,

Rear Admiral, USCG, 13th District Commander.

[FR Doc. 99–4431 Filed 2–22–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE036–1018b; FRL–6303–5]

Approval and Promulgation of Air Quality Implementation Plans; State of Delaware—Transportation Conformity Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Delaware State Implementation Plan (SIP). The revision consists of the addition of Delaware's transportation conformity regulation for the purpose of assuring conformity of Delaware transportation plans, programs and projects to related requirements in the SIP. EPA is proposing to approve Delaware's transportation conformity regulation as a SIP revision in accordance with the requirements of the Clean Air Act.

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the State submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. In the latter case, EPA will address all public comments in a