Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) The safety zones in this regulation are outside navigation channels and will not adversely affect shipping. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Buffalo to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Buffalo on Channel 16, VHF–FM.

(c) *Effective period.* The Captain of the Port Buffalo will publish at least 10 days in advance a Notice of Implementation in the **Federal Register** as well as in the Ninth Coast Guard District Local Notice to Mariners the dates and times this section is in effect.

Dated: April 22, 2002.

S.D. Hardy,

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

[FR Doc. 02–11660 Filed 5–9–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Corpus Christi–02–003]

RIN 2115–AA97

Security Zones: Port of Port Lavaca-Point Comfort, Point Comfort, TX; Port of Corpus Christi Inner Harbor, Corpus Christi, TX; and Port of Brownsville, Brownsville, TX

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent security zones to ensure the safety and security within Port of Port Lavaca-Point Comfort, Port of Corpus Christi, and Port of Brownsville. These security zones are needed to protect personnel, vessels, waterfront facilities, and national security interests in these ports from subversive actions by any group or groups of individuals whose objective is to destroy or disrupt maritime activities. Entry of recreational vessels, passenger vessels, or commercial fishing vessels into these zones would be prohibited unless specifically authorized by the Captain of the Port Corpus Christi or his designated representative.

DATES: Comments and related material must reach the Coast Guard on or before June 10, 2002.

ADDRESSES: You may mail comments and related material to the U.S. Coast Guard Marine Safety Office Corpus Christi, 555 N. Carancahua Street, Suite 500, Corpus Christi, Texas, 78478. Marine Safety Office Corpus Christi maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Corpus Christi between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade (LTJG) T. J. Hopkins, Waterways Management Division, U.S. Coast Guard Marine Safety Office Corpus Christi, Texas, at (361) 888–3162.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (COTP Corpus Christi–02–003), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Corpus Christi at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. National security and intelligence officials have warned that future terrorist attacks against civilian targets may be anticipated. In response to these terrorist acts and warnings, heightened awareness and security of our ports and harbors is necessary. The Captain of the Port, Corpus Christi is proposing to establish permanent security zones within the Port of Port Lavaca-Point Comfort, Port of Corpus Christi, and the Port of Brownsville.

Restricting the access of recreational, passenger, and commercial fishing vessels reduces potential methods of attack on personnel, vessels and waterfront facilities within these zones. These security zones are designed to limit the access of vessels that do not have business to conduct with facilities or structures within these industrial areas. Entry of recreational vessels, passenger vessels, and commercial fishing vessels into these zones would be prohibited unless specifically authorized by the Captain of the Port Corpus Christi or his designated representative.

A temporary final rule was published March 18, 2002 in the **Federal Register** (67 FR 11920) creating a security zone within the Corpus Christi Inner Harbor. The temporary rule restricts access of recreational, passenger, and commercial fishing vessels to the Inner Harbor. The proposed rule would make the Inner Harbor security zone permanent and would establish similar zones in the Port of Port Lavaca-Point Comfort and Port of Brownsville.

Discussion of Proposed Rule

Port Lavaca-Point Comfort is a heavily industrialized area with general cargo facilities, a liquid cargo ship terminal, and a liquid cargo barge terminal. Highways, rail service, and waterways combine to provide shippers with intermodal transportation options at these ports. Liquid cargoes include highly volatile materials such as anhydrous ammonia and butadiene. These materials, if released due to a terrorist attack, could cause wide spread harm and pollution to the surrounding cities of Port Lavaca, Point Comfort, Port O'Connor and Victoria. The Port of Port Lavaca-Point Comfort is located on the east side of Lavaca Bay and is accessible via the Matagorda Ship Channel. The channel has a controlling depth of 38 feet.

The Port of Corpus Christi is the fourth largest petro-chemical port within the United States. A large number of petro-chemical waterfront facilities are located within the Inner Harbor. The Inner Harbor serves as a major industrial ship channel. The Port

of Corpus Christi is also designated as an alternate military strategic load-out port with docks and facilities located within the Inner Harbor. These docks and facilities are vital to the national security interest of the United States. The Inner Harbor is accessible via the Corpus Christi Channel and has a controlling depth of 45 feet.

The Port of Brownsville is a developing industrial port that is becoming more important with the influence of the North American Free Trade Agreement (NAFTA). The Port of Brownsville has marine terminal operations covering both liquid and dry cargo handling. In addition, containerized cargo transportation is anticipated to increase within the port. Principal imports and exports include chemicals, clays, petroleum, grain, agricultural products, sulfur, steel, bulk minerals, ores, fertilizers and aluminum. The Port of Brownsville is accessible via the Brownsville Ship Channel and has a controlling depth of 42 feet.

The proposed rule would create security zones within the industrialized areas of these ports that would exclude recreational, passenger, and commercial fishing vessels from entering these areas. Many large commercial vessels and barges, primarily containing extremely flammable and hazardous materials, transit the industrial areas of these ports. This proposed rule would increase the level of security within the ports by reducing the number of vessels transiting the industrialized area and limiting access to only those vessels that are conducting business with port industries. All recreational, passenger, and commercial fishing vessels would be prohibited from entering the security zones without the permission of the Captain of the Port Corpus Christi or his designated representative.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This rule will not affect commercial traffic conducting business within the ports. Within these areas there are no marinas or other public businesses or docks that service recreational, passenger or commercial fishing vessels. As a result there would be little or no economic impact on recreational, passenger, and commercial fishing vessels or servicing entities. Vessels affected by this proposed rule may be permitted to enter the security zones on a case by case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because recreational vessels, passenger vessels, and commercial fishing vessels do not normally conduct business within these industrialized areas. Should a recreational vessel, passenger vessel, or commercial fishing vessel need to enter one of these security zones to conduct business with a small entity, there is no cost and little burden associated with obtaining permission to enter from the Captain of the Port Corpus Christi via VHF Channel 16 or via telephone at (361) 888–3162.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the address under **ADDRESSES** explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LTJG T.J. Hopkins, Waterways Management, U.S. Coast Guard Marine Safety Office Corpus Christi at (361) 888–3162.

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 proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal

Governments, because it would 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effect

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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 proposed rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). 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 proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.809 to read as follows:

§ 165.809 Security Zones: Port of Port Lavaca-Point Comfort, Point Comfort, Texas; Port of Corpus Christi Inner Harbor, Corpus Christi, Texas; and Port of Brownsville, Brownsville, Texas.

(a) *Location.* The following areas are designated as security zones:

(1) *Port of Port Lavaca-Point Comfort*—all waters between the Dredge Island Bridge at 28°39′30″ N, 96°34′20″ W and a line drawn between points 28°38′10″ N, 96°33′15″ W and 28°38′10″ N, 96°34′45″ W including the Point Comfort turning basin and the adjacent Alcoa Channel. These coordinates are based upon NAD 1983.

(2) *Port of Corpus Christi Inner Harbor*—all waters of the Christi Inner Harbor from the Inner Harbor Bridge (US HWY 181) to, and including, the Viola Turning Basin.

(3) *Port of Brownsville Navigation District*—all waters of the Brownsville Ship Channel, from west of the entrance to the Brownsville Fishing Harbor to, and including, the Brownsville Turning Basin.

(b) *Regulations.* (1) No recreational vessels, passenger vessels, or commercial fishing vessels may enter these security zones unless specifically authorized by the Captain of the Port Corpus Christi or his designated representative.

(2) Recreational vessels, passenger vessels and commercial fishing vessels requiring entry into these security zones must contact the Captain of the Port Corpus Christi or his designated representative. The Captain of the Port may be contacted via VHF Channel 16 or via telephone at (361) 888–3162 to seek permission to enter the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port, Corpus Christi or his designated representative.

(3) Designated U.S. Coast Guard personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority of this section includes 33 U.S.C. 1226.

Dated: April 22, 2002.

William J. Wagner III,

Captain, U.S. Coast Guard, Captain of the Port Corpus Christi.

[FR Doc. 02–11719 Filed 5–9–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV 060–6019b; FRL–7208–3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Nitrogen Oxides Budget Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of West Virginia for the purpose of establishing a nitrogen oxides (NO_X) allowance trading program for large electric generating and industrial units, beginning in 2004, as well as requirements for reductions in NO_X emissions from cement manufacturing kilns. In the Final Rules section of this **Federal Register**, EPA is approving West Virginia'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 detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing by June 10, 2002.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and