

auditor about difficult accounting issues may be just as desirable as encouraging management to consult candidly with outside lawyers, and for similar reasons.

Checkosky I, 23 F.3d at 485.

Accountants and attorneys are members of "ancient professions," regulated according to rigorous ethical rules enforced by professional societies and, in the case of accountants, state licensing boards. I simply do not believe that we should recast negligent violations of an accounting standard as improper professional conduct under the Commission's Rules of Practice. That is not an appropriate role for this Commission. Difficult ethical and professional responsibility concerns are generally matters most appropriately dealt with by professional organizations or, in certain cases, malpractice litigation. Nor do I believe that mere misjudgments or negligence establishes either professional incompetence warranting Commission disciplinary action or the likelihood of future danger to the Commission's processes.

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For all these reasons, I believe that the Commission lacks the authority to adopt a negligence standard under Rule 102(e). Likewise, the Commission may only hold a professional liable for "improper professional conduct" only if scienter is proven. I urge accountants and trade groups directly subject to Rule 102(e), as well as any others who have an interest in Rule 102(e), to submit their views on this important matter. It is my most fervent hope that the Commission receives an abundance of comment letters responding to this release.

[FR Doc. 98-16251 Filed 6-17-98; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07-98-023]

RIN 2115-AE84

Regulated Navigation Area; San Juan Harbor, San Juan, PR

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent regulated navigation area in San Juan Harbor in the vicinity of La Puntilla in San Juan, PR. This regulated navigation area is needed to protect personnel and vessels moored at Coast Guard Base San Juan

from the hazards created by the wakes of passing vessel traffic. By establishing this permanent regulation, the Coast Guard expects to reduce the risk of personnel injury and property damage.

DATES: Comments must be received on or before August 17, 1998.

ADDRESSES: Comments should be mailed to Commanding Officer, U.S. Coast Guard, Marine Safety Office, P.O. Box 9023666, San Juan, PR 00902-3666. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: LT D.R. Xirau, Assistant Chief Port Operations Department, USCG Marine Safety Office San Juan at (787) 729-6800, ext 320.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD07-98-023], and the specific section of this proposal to which each comment applies and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8" X 11" unbound format suitable for copying and electronic filing. If this is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments received.

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

Background and Purpose

These proposed regulations create a regulated navigation area requiring all vessels to maintain minimum steerageway in the vicinity of Coast Guard Base San Juan. These proposed regulations are necessary to provide for the safety of personnel and the protection of vessels that are moored

alongside the piers at Coast Guard Base San Juan. Coast Guard Base San Juan is located at La Puntilla in Old San Juan, at a junction of major channels in the San Juan Harbor. The Coast Guard believes that a significant risk exists under current conditions because wakes cause damage to vessels and the piers, and create major safety hazards to personnel working onboard moored vessels.

The vessels most affected by wakes at Base San Juan are 110-foot Coast Guard patrol boats and other smaller vessels. Heavy wakes have caused moored vessels to roll up to 15 degrees without warning. This places Coast Guard personnel working onboard these vessels at higher risk of injury due to the unexpected movement brought on by wakes. Moreover, while heavy equipment and supplies are being moved on a vessel, a sudden roll could cause the load to be dropped or the personnel carrying the load to lose their balance, possibly resulting in serious injury. There have been many "near miss" incidents which could have proven fatal if personnel had been directly involved, including heavy hatches secured in the open position being jarred loose by strong wakes and slamming shut without warning.

Heavy wakes also cause damage to property at Coast Guard Base San Juan. Vessel hulls, cleats, stanchions, and gangways have been bent or parted. Piers have deteriorated more rapidly due to the added stresses of vessels affected by wakes. In addition, electrical shore ties and fueling hoses have been pulled loose, creating very hazardous situations. By establishing a minimum steerageway in the vicinity of La Puntilla, the risks to personnel and property inherent to wakes will be minimized.

Additionally, beginning in June 1998, five Coast Guard patrol boats will be relocated to Coast Guard base San Juan. After this relocation, there will be a total of eight Coast Guard vessels permanently stationed in San Juan. The construction of new piers to accommodate the additional vessels will commence prior to the end of Fiscal Year 1998. These proposed regulations will also serve to minimize hazards during the construction, which is expected to take one year to complete.

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 as the regulations only require minimum steerage way speeds and do not limit the amount of incoming and outgoing vessels.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), that this proposal, if adopted, would not have a significant impact on a substantial number of small entities as there are no limits imposed on the quantity of incoming or outgoing vessels.

Collection of Information

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

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that the rulemaking does not have sufficient Federalism implication to warrant the preparation of a Federalism Assessment.

Environmental Analysis

The Coast Guard has considered the environmental impact of this proposal and has determined pursuant to figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C, that this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist will be prepared during the comment period and will be available for inspection and copying after the comment period for this proposed rulemaking has expired.

List of Subjects in 33 CFR Part 165

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

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Subpart F of 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. Add a new § 165.756 to read as follows:

§ 165.756 Regulated Navigation Area; San Juan Harbor, San Juan, Puerto Rico.

(a) *Regulated Area.* The following is a Regulated Navigation Area: All the waters of San Juan Harbor bounded by the following geographic coordinates: Lighted Buoy #11 (LLNR 30805) in approximate position 18-27.31N, 066-07.01W; east to Puerto Rico Ports Authority Pier #3 in approximate position 18-27.40N, 066-06.43W; south to Lighted Buoy "A" (LLNR 30845) in approximate position 18-26.55N, 066-06.26W; west to Nun Buoy "A" in approximate position 18-27.01N, 066-06.59W; and thence north to the point of origin. All coordinates referenced use Datum: NAD 83.

(b) *Regulations.* Unless otherwise authorized by the Captain of the Port, San Juan, Puerto Rico, vessels operating in the regulated area must travel no faster than needed for steerageway. The general regulations in § 165.13 of this part apply.

(c) *Enforcement.* Violations of this regulated navigation area should be reported to the Captain of the Port, San Juan, PR.

Dated: June 5, 1998.

N.T. Saunders,

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

[FR Doc. 98-16240 Filed 6-17-98; 8:45 am]

BILLING CODE 4910-15-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 187-0064; FRL-6112-1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the California State Implementation Plan (SIP) which concerns the control of volatile organic compound (VOC) emissions from architectural coatings.

The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rulemaking will incorporate this rule into the federally approved SIP. EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: Comments must be received on or before July 20, 1998.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of this rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board,
Stationary Source Division, Rule
Evaluation Section, 2020 "L" Street,
Sacramento, CA 95812.
South Coast Air Quality Management
District, 21865 E. Copley Drive,
Diamond Bar, CA 91765-4182.

FOR FURTHER INFORMATION CONTACT:
Yvonne Fong, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1199.

SUPPLEMENTARY INFORMATION:

I. Applicability

This Federal Register action for the South Coast Air Quality Management