

determination are subject to the EAR (See 15 CFR 734.3).

(c) \* \* \*

(4) Advisory opinions are limited in scope to BIS's interpretation of EAR provisions. Advisory opinions differ from commodity classifications in that advisory opinions are not limited to the interpretation of provisions contained in the Commerce Control List. Advisory opinions may not be relied upon or cited as evidence that the U.S. Government has determined that the items described in the advisory opinion are not subject to the export control jurisdiction of another agency of the U.S. Government (See 15 CFR 734.3).

\* \* \* \* \*

Dated: July 23, 2010.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2010-18735 Filed 7-30-10; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0709]

RIN 1625-AA87

#### Security Zone; 2010 Seattle Seafair Fleet Week Moving Vessels, Puget Sound, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The U.S. Coast Guard is establishing temporary moving security zones surrounding the HMCS NANAIMO (NCSM 702), HMCS EDMONTON (NCSM 703), and the HMCS BRANDON (NCSM 710) which include all waters within 100 yards from the vessels while underway in the Puget Sound Captain of the Port (COTP) Area of Responsibility (AOR). These security zones are necessary to help ensure the security of the vessels from sabotage or other subversive acts during Seafair Fleet Week and will do so by prohibiting any person or vessel from entering or remaining in the security zones unless authorized by the COTP, Puget Sound or Designated Representative.

**DATES:** This rule is effective from 8 a.m. until 11:59 p.m. on August 4, 2010 unless canceled sooner by the COTP.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-

0709 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0709 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail LTJG Ian Hanna, Sector Seattle, Waterways Management Division, US Coast Guard; telephone 206-217-6045, e-mail [Ian.S.Hanna@uscg.mil](mailto:Ian.S.Hanna@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable due to the inherent compromise to security resulting from advertising in advance locations of naval vessels, both foreign and domestic.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because immediate action is necessary to ensure security of visiting foreign vessels in the 2010 Seattle Seafair Fleet Week event.

##### Basis and Purpose

Seattle's Seafair Fleet Week is an annual event which brings a variety of foreign military vessels to Seattle. The event draws large crowds and a number of vessels that are under inherent security risks due to their military functions. This rule is necessary to ensure the security of visiting foreign military vessels not covered under the Naval Vessel Protection Zone (NVPZ),

and provides similar security measures while these vessels are transiting Puget Sound.

##### Discussion of Rule

The temporary security zones established by this rule will prohibit any person or vessel from entering or remaining within 100 yards of the HMCS NANAIMO (NCSM 702), HMCS EDMONTON (NCSM 703), and the HMCS BRANDON (NCSM 710) while underway in the Puget Sound COTP AOR unless authorized by the COTP, Puget Sound, or Designated Representative. The security zones will be enforced by Coast Guard personnel. The COTP may also be assisted in the enforcement of the zones by other federal, state, or local agencies.

##### 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.

The Coast Guard bases this finding on the fact that the security zones will be in place for a limited period of time and vessel traffic will be able to transit around the security zones. Maritime traffic may also request permission to transit through the zones from the COTP, Puget Sound or 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.

This rule will affect the following entities, some of which may be small entities; the owners and operators of

vessels intending to operate in the waters covered by the security zones while they are in effect. The rule will not have a significant economic impact on a substantial number of small entities, however, because the security zones will be in place for a limited period of time and maritime traffic will still be able to transit around the security zones. Maritime traffic may also request permission to transit through the zones from the COTP, Puget Sound or Designated Representative.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can 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 (adjusted for inflation) 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 cause 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 023–01 and Commandant Instruction M16475.1D, 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 this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of temporary security zones. An environmental analysis checklist and a categorical exclusion will be 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, 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.T13–157 to read as follows:

#### **§ 165.T13–157 Security Zone; 2010 Seattle Seafair Fleet Week Moving Vessels, Puget Sound, Washington**

(a) *Location.* The following areas are security zones: All waters encompassed within 100 yards surrounding the HMCS NANAIMO (NCSM 702), HMCS EDMONTON (NCSM 703), and the

HMCS BRANDON (NCSM 710) while underway in the Puget Sound COTP Area of Responsibility (AOR).

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart D, no person or vessel may enter or remain in the security zones without the permission of the COTP or Designated Representative. See 33 CFR Part 165, Subpart D, for additional requirements. The COTP may be assisted by other federal, state or local agencies with the enforcement of the security zones.

(c) *Authorization.* All vessel operators who desire to enter the security zones must obtain permission from the COTP or Designated Representative by contacting either the on-scene Coast Guard patrol craft on VHF 13 or Ch 16. Requests must include the reason why movement within the security zones is necessary. Vessel operators granted permission to enter the security zones will be escorted by the on-scene Coast Guard patrol craft until they are outside of the security zones.

(d) *Enforcement Period.* This rule is effective from 8 a.m. until 11:59 p.m. on August 4, 2010 unless canceled sooner by the COTP.

Dated: July 22, 2010.

**S.W. Bornemann,**

*Captain, U. S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 2010-18945 Filed 7-30-10; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Docket No. EPA-R02-OAR-2010-0530; FRL-9183-9]

#### **Adequacy Status of Motor Vehicle Emissions Budgets in Submitted Reasonable Further Progress and Attainment Demonstrations for New York Portions of New York-Northern New Jersey-Long Island and Poughkeepsie 8-hour Ozone Nonattainment areas for Transportation Conformity Purposes; NY**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Adequacy.

**SUMMARY:** In this notice, EPA is notifying the public that we have found that the motor vehicle emissions budgets for volatile organic compound (VOC) and nitrogen oxides (NO<sub>x</sub>) in the submitted reasonable further progress state implementation plan for the New

York portions of the New York-Northern New Jersey-Long Island, NY-NJ-CT 8-hour ozone nonattainment area, as well as the submitted reasonable further progress and attainment demonstration state implementation plans for the Poughkeepsie, New York 8-hour ozone nonattainment area, to be adequate for transportation conformity purposes. The transportation conformity rule requires that the EPA conduct a public process and make an affirmative decision on the adequacy of these budgets before they can be used by metropolitan planning organizations in conformity determinations. As a result of our finding, the New York Metropolitan Transportation Council (excluding Putnam County) must use the submitted 2008 8-hour ozone budgets for future transportation conformity determinations, and the Orange County Transportation Council, the Poughkeepsie-Dutchess Transportation Council and the New York Metropolitan Transportation Council (Putnam County only) must use the submitted 2008 and 2009 8-hour ozone budgets for future transportation conformity determinations.

**DATES:** This finding is effective August 17, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Melanie Zeman, Air Programs Branch, Environmental Protection Agency—Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4022, [zeman.melanie@epa.gov](mailto:zeman.melanie@epa.gov).

The finding and the response to comments will be available at EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 8, 2008, New York State submitted reasonable further progress and attainment demonstration state implementation plans to EPA for its portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT and Poughkeepsie, New York, 8-hour ozone nonattainment areas. The purpose of the New York State submittal was to demonstrate both of the areas progress toward attaining the 8-hour ozone National Ambient Air Quality Standard. The submittal included motor vehicle emissions budgets (“budgets”) for 2008 and 2009 for the Poughkeepsie 8-hour ozone nonattainment area and 2008 budgets for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT nonattainment area for use by the State's metropolitan planning organizations in making transportation conformity

determinations. On June 12, 2008, and June 2, 2008, respectively, the availability of the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT 8-hour ozone nonattainment area and the Poughkeepsie, New York 8-hour ozone nonattainment area transportation conformity budgets were posted on EPA's Web site for the purpose of soliciting public comments. The adequacy public comment period closed for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT area budgets on July 14, 2008, and EPA received no public comments. The public comment period closed for the Poughkeepsie, New York area budgets on July 2, 2008. EPA's response to comments received during this period is posted on the EPA adequacy Web site listed below. Today's notice is simply an announcement of a finding that EPA has already made. EPA Region 2 sent a letter to New York State Department of Environmental Conservation on June 21, 2010. The findings letter states that the 2008 motor vehicle emissions budgets in New York's SIP submissions for both the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT and Poughkeepsie, New York 8-hour ozone nonattainment areas are adequate because they are consistent with the required rate of progress plan. With regard to the 2009 motor vehicle emissions budgets, the findings letter states that for the Poughkeepsie, New York 8-hour ozone nonattainment area, these budgets are adequate for transportation conformity purposes because they are consistent with the plan's demonstration of attainment. EPA's finding will also be announced on EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>.

For informational purposes, EPA notes that on April 4, 2008, New York submitted to EPA a request for a voluntary reclassification of the New York-Northern New Jersey-Long Island, NY-NJ-CT 8-hour ozone nonattainment area from “moderate” to “serious” pursuant to section 181(b)(3) of the Act. Related to this request, New York provided EPA with 2011 and 2012 motor vehicle emissions budgets. EPA is continuing to review New York's request for a voluntary reclassification of the New York-Northern New Jersey-Long Island, NY-NJ-CT 8-hour ozone nonattainment area and therefore is not taking action on the 2011 or 2012 budgets at this time. EPA would take action on these budgets at the same time