

small entities, as defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

Executive Order 12866

The Department of State has reviewed this proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of this final regulation justify its costs. The Department does not consider this final rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy of \$100 million or more or to adversely affect in a material way the economy, a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Paperwork Reduction Act

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 40

Aliens, Immigration, Visas.

■ For the reasons stated in the preamble, the Department of State amends 22 CFR part 40 as follows:

PART 40—REGULATIONS PERTAINING TO BOTH NONIMMIGRANTS AND IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

- 1. The authority citation for part 40 will continue to read as follows:
Authority: 8 U.S.C. 1104.
- 2. Section 40.301 is amended by revising paragraph (a) to read as follows:

§ 40.301 Waiver for ineligible nonimmigrants under INA 212(d)(3)(A)

(a) *Report or recommendation to Department.* Except as provided in paragraph (b) of this section, consular officers may, upon their own initiative, and shall, upon the request of the Secretary of State or upon the request of the alien, submit a report to the Department for possible transmission to the Secretary of Homeland Security pursuant to the provisions of INA 212(d)(3)(A) in the case of an alien who is classifiable as a nonimmigrant but who is known or believed by the consular officer to be ineligible to receive a nonimmigrant visa under the provisions of INA 212(a), other than INA 212(a) (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), (3)(E)(i), or (3)(E)(ii).

* * * * *

Dated: December 7, 2010.

Janice L. Jacobs,
Assistant Secretary for Consular Affairs,
Department of State.

[FR Doc. 2010-32944 Filed 12-29-10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2010-1129]

RIN 1625-AA87

Security Zones; Moored Cruise Ships, Port of San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone regulation from December 21, 2010, through June 20, 2011. The security zones created by this rule will encompass all navigable waters extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is moored at any berth within the San Diego port area inside the sea buoys bounding the Port of San Diego. This temporary final rule is necessary to provide for the safety of the cruise ship, vessels, and users of the waterway. Entry into these security zones will be prohibited unless specifically authorized by the Captain of the Port (COTP) San Diego, or his or her designated representative. This rule will also suspend paragraph (b)(2) of 33 CFR 165.1108, a related regulation.

DATES: This rule is effective from December 21, 2010, through June 20, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-1129 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-1129 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 Commander Michael B. Dolan, Prevention, Coast Guard Sector San Diego, Coast Guard; telephone 619-278-7261, e-mail Michael.B.Dolan@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 it is contrary to the public interest not to issue a rule that is effective by December 21, 2010. Good cause exists to issue a temporary rule amending Section 165.1108, due to the opening of the Broadway cruise ship terminal and the anticipated arrival of cruise ships immediately thereafter, including on December 22, 2010. It is in the public interest to avoid the potential disruption that could be caused to major roadways just onshore. Moreover, security interests can continue to be maintained during the ensuing notice and comment rulemaking to amend Section 165.1108(b)(2). In addition, this rule will relieve an unnecessary burden imposed by varying interpretations of 33 CFR 165.1108(b)(2) while providing an effective security zone regulation in its place during a notice-and-comment rulemaking to amend § 165.1108(b)(2). As noted in the Discussion of the Rule section below, the Coast Guard will initiate a separate, notice-and-comment rulemaking proposing to amend 33 CFR 165.1108(b)(2) while this temporary rule is in effect.

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 it is contrary to the public interest not to suspend 33 CFR 165.1108(b)(2) and issue an effective temporary rule for moored cruise ships in San Diego Harbor by December 21, 2010.

Background and Purpose

Based on experience with actual security zone enforcement operations, the COTP San Diego has concluded that a security zone encompassing all navigable waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is moored at any berth within the San Diego port area inside the sea buoys bounding the Port of San Diego would

provide for the safety of the cruise ship, vessels, and users of the waterway.

Discussion of Rule

The Coast Guard is establishing a temporary security zone regulation from December 21, 2010, through June 20, 2011. The security zones created by this temporary final rule will encompass all navigable waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is moored at any berth within the San Diego port area inside the sea buoys bounding the Port of San Diego. These security zones are necessary to provide for the safety of the cruise ship, vessels, and users of the waterway. Entry into these zones will be prohibited unless specifically authorized by the Captain of the Port (COTP) San Diego, or his or her designated representative.

This temporary rule also suspends paragraph (b)(2) of 33 CFR 165.1108. The Coast Guard will initiate a separate, notice-and-comment rulemaking, to amend § 165.1108(b)(2) and clarify what is meant by its reference to “shore area.” The COTP has determined the security zones for moored cruise ships in San Diego Harbor need not include any land.

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.

It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that full Regulatory Evaluation is unnecessary. Most of the entities likely to be affected are pleasure craft engaged in recreational activities and sightseeing. In addition, due to National Security interests, the implementation of this temporary security zone regulation is necessary for the protection of the United States and its people. The size of the zones is the minimum necessary to provide adequate protection for cruise ships.

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 or operators of vessels intending to transit or anchor San Diego Bay within a 100-yard radius of cruise ships covered by this temporary final rule while it is effective from December 21, 2010 through June 20, 2011.

This security zone regulation will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic can pass safely around the zones. Before the arrival of any cruise ship that would activate a security zone under this temporary final rule, the Coast Guard will issue local notice to mariners (LNM) and broadcast notice to mariners (BNM) alerts via VHF–FM marine channel 16 before the security zone is enforced.

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 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 023–01 and Commandant Instruction M16475.ID, 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 which 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 security 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, 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. 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, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

§ 165.1108 [Amended]

■ 2. From December 21, 2010, through June 20, 2011, temporarily suspend § 165.1108(b)(2).

■ 3. From December 21, 2010, through June 20, 2011, temporarily add § 165.T11–386 to read as follows:

§ 165.T11–386 Temporary Security Zones; Moored Cruise Ships, Port of San Diego, California.

(a) *Definition.* *Cruise ship* as used in this section means a passenger vessel, except for a ferry, 100 gross tons or more, authorized to carry more than 12 passengers for hire; capable of making international voyages lasting more than 24 hours, any part of which is on the high seas; and for which passengers are embarked, disembarked or at a port of call in the San Diego port.

(b) *Location.* The following areas are security zones: All navigable waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is moored at any berth within the San Diego port area inside the sea buoys bounding the Port of San Diego.

(c) *Regulations.* Under regulations in 33 CFR part 165, subpart D, entry into or remaining in the security zones created by this section is prohibited unless authorized by the Coast Guard Captain of the Port, San Diego or his designated representative. Persons desiring to transit the area of the security zones may contact the Captain of the Port at telephone number (619) 683–6495 or on VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zones by the San Diego Harbor Police.

Dated: December 20, 2010.

P.J. Hill,

Commander, U.S. Coast Guard, Acting Captain of the Port San Diego, CA.

[FR Doc. 2010-32914 Filed 12-28-10; 11:15 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-HQ-OAR-2010-0107; FRL-9245-3]

RIN 2060-AQ45

Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is establishing a federal implementation plan (FIP) to apply in each of seven states that have not submitted by their established deadline

a corrective state implementation plan (SIP) revision to apply their Clean Air Act (CAA or Act) Prevention of Significant Deterioration (PSD) program to sources of greenhouse gases (GHGs). This action will ensure that a permitting authority—EPA—is available in these states as of January 2, 2011, when PSD becomes applicable to GHG-emitting sources, to issue preconstruction PSD permits and thereby facilitate construction or expansion. The seven states are: Arizona: Both Pinal County and Rest of State (excluding Maricopa County, Pima County, and Indian Country), Arkansas, Florida, Idaho, Kansas, Oregon, and Wyoming. This action is related to EPA’s recently promulgated final rule, published on December 13, 2010, which we call the GHG PSD SIP call, and in which EPA made a finding of substantial inadequacy and issued a SIP call for these seven states and several others on grounds that their SIPs do not apply the PSD program to GHG-emitting sources.

DATES: This action is effective on December 30, 2010.

ADDRESSES: EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2010-0107. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some

information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the U.S. Environmental Protection Agency, Air Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Vetter, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504-03), Environmental Protection Agency, Research Triangle Park, NC 27711; *telephone number:* (919) 541-4391; *fax number:* (919) 541-5509; *e-mail address:* vetter.cheryl@epa.gov.

For information related to a specific state, local, or tribal permitting authority, please contact the appropriate EPA regional office:

EPA regional office	Contact for regional office (person, mailing address, telephone number)	Permitting authority
I	Dave Conroy, Chief, Air Programs Branch, EPA Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109-3912, (617) 918-1661.	Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, and Vermont
II	Raymond Werner, Chief, Air Programs Branch, EPA Region 2, 290 Broadway, 25th Floor, New York, NY 10007-1866, (212) 637-3706.	New Jersey, New York, Puerto Rico, and Virgin Islands.
III	Kathleen Cox, Chief, Permits and Technical Assessment Branch, EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103-2029, (215) 814-2173.	District of Columbia, Delaware, Maryland, Pennsylvania, Virginia, and West Virginia.
IV	Lynorae Benjamin, Chief, Regulatory Development Section, Air, Pesticides and Toxics Management Division, EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, GA 30303-3104, (404) 562-9033.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
V	J. Elmer Bortzer, Chief, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604-3507, (312) 886-1430.	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
VI	Jeff Robinson, Chief, Air Permits Section, EPA Region 6, Fountain Place 12th Floor, Suite 1200, 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-6435.	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
VII	Mark Smith, Chief, Air Permitting and Compliance Branch, EPA Region 7, 901 North 5th Street, Kansas City, KS 66101, (913) 551-7876.	Iowa, Kansas, Missouri, and Nebraska.
VIII	Carl Daly, Unit Leader, Air Permitting, Monitoring & Modeling Unit, EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-6416.	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
IX	Gerardo Rios, Chief, Permits Office, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3974.	Arizona, California, Hawaii and the Pacific Islands, Indian Country within Region 9 and Navajo Nation, and Nevada.
X	Nancy Helm, Manager, Federal and Delegated Air Programs Unit, EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101, (206) 553-6908.	Alaska, Idaho, Oregon, and Washington.