(2) *Examples.* The provisions of this paragraph (c) are illustrated in the following examples:

Example 1. (i) *Facts.* As part of an arrangement for the deferral of compensation, an eligible employer agrees on December 1, 2002 to pay an individual rendering services for the eligible employer a specified dollar amount on January 15, 2005. The arrangement provides for the payment to be made in the form of property having a fair market value equal to the specified dollar amount. The individual's rights to the payment are not subject to a substantial risk of forfeiture (within the meaning of section 457(f)(3)(B)).

(ii) *Conclusion.* In this example, because there is no substantial risk of forfeiture with respect to the agreement to transfer property in 2005, the present value (as of December 1, 2002) of the payment is includible in the individual's gross income for 2002. Under paragraph (a)(4) of this section, when the payment is made on January 15, 2005, the amount includible in the individual's gross income is equal to the excess of the fair market value of the property when paid, over the amount that was includible in gross income for 2002 (which is the basis allocable to that payment).

Example 2. (i) *Facts.* As part of an arrangement for the deferral of compensation, individuals A and B rendering services for a tax-exempt entity each receive in 2010 property that is subject to a substantial risk of forfeiture (within the meaning of section 457(f)(3)(B) and within the meaning of section 83(c)(1)). Individual A makes an election to include the fair market value of the property in gross income under section 83(b) and individual B does not make this election. The substantial risk of forfeiture for the property transferred to individual A lapses in 2012 and the substantial risk of forfeiture for the property transferred to individual B also lapses in 2012. Thus, the property transferred to individual A is included in A's gross income for 2010 when A makes a section 83(b) election and the property transferred to individual B is included in B's gross income for 2012 when the substantial risk of forfeiture for the property lapses.

(ii) *Conclusion.* In this example *2*, in each case, the compensation deferred is not subject to section 457(f) or this section because section 83 applies to the transfer of property on or before the date on which there is no substantial risk of forfeiture with respect to compensation deferred under the arrangement.

Example 3. (i) *Facts.* In 2010, X, a tax-exempt entity, agrees to pay deferred compensation to employee C. The amount payable is $100,000 to be paid 10 years later in 2020. The commitment to make the $100,000 payment is not subject to a substantial risk of forfeiture. In 2010, the present value of the $100,000 is $50,000. In 2018, X transfers to C property having a fair market value (for purposes of section 83) equal to $70,000. The transfer is in partial settlement of the commitment made in 2010 and, at the time of the transfer in 2018, the present value of the commitment is $80,000. In 2020, X pays C the $12,500 that remains due.

(ii) *Conclusion.* In this example *3,* C has income of $50,000 in 2010. In 2018, C has income of $30,000, which is the amount transferred in 2018, minus the allocable portion of the basis that results from the $50,000 of income in 2010. (Under section 72(e)(2)(B), income is allocated first. The income is equal to $30,000 ($80,000 minus the $50,000 basis), with the result that the allocable portion of the basis is equal to $40,000 ($70,000 minus the $30,000 of income).) In 2020, C has income of $2,500 ($12,500 minus $10,000, which is the excess of the original $50,000 basis over the $40,000 basis allocated to the transfer made in 2018).

§ 1.457–12 Effective dates.

Sections 1.457–1 through 1.457–11 apply for taxable years beginning after December 31, 2001, except that § 1.457–11(c) does not apply with respect to an option without a readily ascertainable fair market value (within the meaning of section 83(e)(3)) that was granted on or before May 8, 2002 and, except that § 1.457–10(c) (relating to qualified domestic relations orders) applies for transfers, distributions, and payments made afer December 31, 2001.

Robert E. Wenzel,

Deputy Commissioner of the Internal Revenue Service.

[FR Doc. 02–11036 Filed 5–7–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–011]

RIN 2115–AA97

Security Zones; Captain of the Port Toledo Zone, Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish two permanent security zones on the navigable waters of Lake Erie in the Captain of the Port Toledo zone. These security zones are necessary to protect the Enrico Fermi 2 Nuclear Power Station and the Davis Besse Nuclear Power Station from possible acts of terrorism. These security zones are intended to restrict vessel traffic from a portion of Lake Erie off the Enrico Fermi 2 Nuclear Power Station and the Davis Besse Nuclear Power Stations.

DATES: Comments and related material must reach the Coast Guard on or before June 7, 2002.

ADDRESSES: You may mail comments to U.S. Coast Guard Marine Safety Office Toledo, 420 Madison Ave, Suite 700, Toledo, Ohio 43604. The telephone number is (419) 418–6050. Marine Safety Office Toledo maintains the public docket for this rulemaking. Comments and materials 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 between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: LT Herb Oertli, Chief of Port Operations, Marine Safety Office, 420 Madison Ave, Suite 700, Toledo, Ohio 43604; (419) 418–6050.

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 (CGD09–02–011), 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 U.S. Coast Guard Marine Safety Office Toledo 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 later notice in the **Federal Register**.

Background and Purpose

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in the destruction of the World Trade Center, significant damage to the Pentagon, and tragic loss of life. National security and intelligence officials warn that future terrorists attacks are likely.

We propose to establish a permanent security zone off the waters of Enrico Fermi 2 Nuclear Power Station, Newport, Michigan. This security zone

would include waters and adjacent shoreline within a boundary commencing at 41°58.4′ N, 083°15.4′ W; then northeast to 41°58.5′ N, 083°15.0′ W; then southeast to 41°58.2′ N, 083°13.7′ W; then south to 41°56.9′ N, 083°13.8′ W; then west to 41°56.9′ N, 083°15.2′ W; then back to the starting point at 41°58.4′ N, 083°15.4′ W.

Our proposed rule would also establish a permanent security zone off the waters of Davis Besse Nuclear Power Station, Port Clinton, Ohio. This security zone would include waters and adjacent shoreline within a boundary commencing at 41°36.3 N, 083°04.9′ W; then north to 41°37.0′ N, 083°03.9′ W; east to 41°35.9′ N, 083°02.5′ W; southwest to 41°35.4′ N, 083°03.7′ W; then back to the starting point 41°36.3′ N, 083°04.9′ W.

These proposed security zones are necessary to protect the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Toledo, or his authorized representative, are prohibited from entering or moving within these zones. The Captain of the Port Toledo may be contacted via VHF Channel 16 for further instructions before transiting through the restricted area. The Captain of the Port Toledo's on-scene representative will be the patrol commander. In addition to publication in the **Federal Register**, the public will be made aware of the existence of this security zone, exact location and the restrictions involved via Local Notice To Mariners and a Broadcast Notice to Mariners.

Discussion of Proposed Rule

Following the catastrophic nature and extent of damage realized from the attacks of September 11, this proposed rulemaking is necessary to protect the national security interests of the United States against having these nuclear power plants become targets of terrorists.

On October 12, 2001 we published a temporary final rule establishing a security zone on the waters of Lake Erie around the Enrico Fermi 2 Nuclear Power Station, (66 FR 52039), as well as a security zone on Lake Erie around Davis Besse Nuclear Power Plant (66 FR 52038). We propose to establish permanent security zones in place of those temporary security zones. The proposed security zones in this regulation are smaller in size compared to those originally created on October 12, 2001 in the temporary final rule.

Regulatory Evaluation

This proposed rule 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. The Office of Management and Budget has exempted it from review 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 10(e) of the regulatory policies and procedures of DOT is unnecessary.

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 proposed rule would not have a significant economic impact on a substantial number of small entities.

These proposed security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Our proposed rule will not obstruct the regular flow of commercial traffic and will allow vessel traffic to pass around the security zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **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 (Public Law 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 the office listed in Addresses in this preamble.

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).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under Executive Order 13132, Federalism, and have determined that this proposed rule would not have implications for federalism under that Order.

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 would 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 would 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 proposed rule is not an

economically significant rule and would not create an environmental risk to health or risk to safety that might 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.

Energy Effects

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.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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.

§ 165.T09–135 [Removed]

2. Remove § 165.T09–135.

§ 165.T09–136 [Removed]

3. Remove § 165.T09–136.

4. Add § 165.915 to read as follows:

§ 165.915 Security zones; Captain of the Port Toledo Zone, Lake Erie.

(a) *Security zones.* The following areas are security zones:

(1) *Enrico Fermi 2 Nuclear Power Station.* All waters and adjacent shoreline encompassed by a line commencing at 41°58.4′ N, 083°15.4′ W; then northeast to 41°58.5′ N, 083°15.0′ W; then southeast to 41°58.2′ N, 083°13.7′ W; then south to 41°56.9′, N 083°13.8′ W; then west to 41°56.9′ N, 083°15.2′ W; then back to the starting point at 41°58.4′ N, 083°15.4′ W (NAD 83).

(2) *Davis Besse Nuclear Power Station.* All waters and adjacent shoreline encompassed by a line commencing at 41°36.3′ N, 083°04.9′ W; north to 41°37.0′ N, 083°03.9′ W; east to 41°35.9′ N, 083°02.5′ W; southwest to 41°35.4′ N, 083°03.7′ W; then back to the starting point 41°36.3′ N, 083°04.9′ W. (NAD 83).

(b) *Regulations.* (1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Toledo. Section 165.33 also contains other general requirements.

(2) Persons desiring to transit through either of these security zones, prior to transiting, must contact the Captain of the Port Toledo at telephone number (419) 418–6050, or on VHF/FM channel 16 and request permission. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *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.

Dated: April 26, 2002.

D.L. Scott,

Commander, U.S. Coast Guard, Captain of the Port Toledo.

[FR Doc. 02–11492 Filed 5–7–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7207–7]

RIN 2060–AG93

National Emission Standards for Hazardous Air Pollutants: Semiconductor Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for semiconductor manufacturing operations. The EPA has identified these operations as major sources of emissions of hazardous air pollutants (HAP) such as hydrochloric acid (HCl), hydrofluoric acid (HF), glycol ethers, methanol, and xylene. These HAP are associated with a variety of adverse health effects. These adverse health effects include irritation of the lung, skin, and mucus membranes, effects on the central nervous system, and damage to the skeleton system. These proposed NESHAP would require all semiconductor manufacturing facilities that are major sources to meet emission standards reflecting the application of the maximum achievable control technology (MACT).

DATES: *Comments.* Submit comments on or before July 8, 2002.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by May 28, 2002, a public hearing will be held on June 7, 2002.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–97–15, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–97–15, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed in **FOR FURTHER INFORMATION CONTACT.**

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or an alternate site nearby.

Docket. Docket No. A–97–15 includes source category-specific supporting information for Semiconductor Manufacturing. The docket is located at the U.S. EPA, Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500 (ground floor), 401 M Street SW., Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning the proposed rule, contact Mr. John Schaefer, US EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone (919) 541–0296, e-mail: *schaefer.john@epa.gov.*