

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. 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 rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are proposing to establish a safety zone. 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 recordkeeping requirements, Security measures, Waterways.

PART 165—[AMENDED]

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

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 new § 165.T11-034 to read as follows:

§ 165.T11-034 Safety Zone; Mission Bay, San Diego, CA.

(a) *Location.* The safety zone consists of the navigable waters extending 50 yards to either side of the course line, defined more specifically as follows: Starting at a point 32°46'00" N, 117°13'00" W, then northwest to 32°46'10" N, 117°13'45" W, then north to 32°47'00" N, 117°13'30" W, then south to 32°46'15" N, 117°14'00" W, then northwest to 32°46'48" N, 117°14'40" W. All coordinates are North American Datum 1983.

(b) *Effective dates.* This safety zone will be in effect from 6 a.m. (PST) to 12 p.m. (PST) on November 10, 2002. If the need for the safety zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The Patrol Commander may be contacted via VHF-FM Channel 16.

Dated: October 4, 2002.

S. P. Metruck,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13-02-015]

RIN 2115-AA97

Security Zones; Protection of Tank Ships, Puget Sound, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Increases in the Coast Guard's maritime security posture necessitate establishing temporary regulations for the safety or security of tank ships in the navigable waters of Puget Sound and adjacent waters, Washington. This

security zone will provide for the regulation of vessel traffic in the vicinity of tank ships in the navigable waters of the United States.

DATES: This temporary rule is effective from October 15, 2002 until April 15, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD 13-02-015 and are available for inspection or copying at Marine Safety Office Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT A. L. Praskovich, c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, WA 98134, (206) 217-6232.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to safeguard tank ships from sabotage, other subversive acts, or accidents. If normal notice and comment procedures were followed, this rule would not become effective soon enough to provide immediate protection to tank ships from the threats posed by hostile entities and would compromise the vital national interest in protecting maritime transportation and commerce. The security zone in this regulation has been carefully designed to minimally impact the public while providing a reasonable level of protection for tank ships. For these reasons, following normal rulemaking procedures in this case would be impracticable, unnecessary, and contrary to the public interest.

Background and Purpose

Recent events highlight the fact that there are hostile entities operating with the intent to harm U.S. National Security. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks (67 FR 58317 (Sept. 13, 2002) (continuing national emergency with respect to terrorist attacks), 67 FR 59447 (Sept. 20, 2002) (continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to

law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the attacks (E.O. 13,273, 67 FR 56215 (Sept. 3, 2002) (security endangered by disturbances in international relations of U.S and such disturbances continue to endanger such relations).

The Coast Guard, through this action, intends to assist tank ships by establishing a security zone to exclude persons and vessels from the immediate vicinity of all tank ships. Entry into this zone will be prohibited unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other federal, state, or local agencies.

Discussion of Rule

This rule, for safety and security concerns, controls vessel movement in a regulated area surrounding tank ships. For the purpose of this regulation, a tank ship means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous material in bulk as cargo or cargo residue in the cargo spaces. The definition of tank ship does not include tank barges. All vessels within 500 yards of tank ship shall operate at the minimum speed necessary to maintain a safe course, and shall proceed as directed by the official patrol. No vessel, except a public vessel (defined below), is allowed within 100 yards of a tank ship, unless authorized by the official patrol or tank ship master. Vessels requesting to pass within 100 yards of a tank ship shall contact the official patrol or tank ship master on VHF-FM channel 16 or 13. The official patrol or tank ship master may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of a tank ship in order to ensure a safe passage in accordance with the Navigation Rules. Similarly, commercial vessels anchored in a designated anchorage area may be permitted to remain at anchor within 100 yards of passing tank ships. Public vessels for the purpose of this Temporary Final Rule are vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

Regulatory Evaluation

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 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 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation restricts access to the regulated area, the affect of this regulation will not be significant because: (i) Individual tank ship security zones are limited in size; (ii) the official patrol or tank ship master may authorize access to the tank ship security zone; (iii) the tank ship security zone for any given transiting tank ship will affect a given geographical location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

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 may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of tank ships in the navigable waters of the United States.

This temporary regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual tank ship security zones are limited in size; (ii) the official patrol or tank ship master may authorize access to the tank ship security zone; (iii) the tank ship security zone for any given transiting tank ship will affect a given geographic location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

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 rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact one of the points of contact listed under **FOR FURTHER INFORMATION CONTACT**.

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 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

The Coast Guard recognizes the rights of Native American Tribes under the Stevens Treaties. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies to mitigate tribal concerns. Given the flexibility of the Temporary Final Rule to accommodate the special needs of mariners in the vicinity of tank ships and the Coast Guard's commitment to working with the Tribes, we have determined that tank ship security and fishing rights protection need not be incompatible and therefore have determined that this Temporary Final 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Temporary Final Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

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. 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

The Coast Guard's preliminary review indicates this temporary rule is

categorically excluded from further environmental documentation under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.ID. As an emergency action, the Environmental Analysis, requisite regulatory consultations, and Categorical Exclusion Determination will be prepared and submitted after establishment of this temporary tank ship security zone, and will be available in the docket. This temporary rule ensures the safety and security of tank ships. All standard environmental measures remain in effect. The Categorical Exclusion Determination will be made 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 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; 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. From October 15, 2002, until April 15, 2003, temporary § 165.T13-011 is added to read as follows:

§ 165.T13-011 Security Zone Regulations; Tank Ship Protection Zone, Puget Sound and adjacent waters, Washington.

(a) The following definitions apply to this regulation:

Federal Law Enforcement Officer means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

Navigable waters of the United States means those waters defined as such in 33 CFR part 2.

Navigation Rules means the Navigation Rules, International-Inland.

Official Patrol means those persons designated by the Captain of the Port to monitor a tank ship protection zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone and take other actions authorized by the Captain of the Port. Persons authorized to enforce this Temporary Final Rule are designated as the Official Patrol.

Public vessel means vessels owned, chartered, or operated by the United

States, or by a State or political subdivision thereof.

Tank Ship means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous material in bulk as cargo or cargo residue in the cargo spaces. The definition of tank ship does not include tank barges.

Tank Ship Protection Zone is a 500-yard regulated area of water surrounding tank ships that is necessary to provide for the safety or security of these vessels.

Washington Law Enforcement Officer means any General Authority Washington Peace Officer, Limited Authority Washington Peace Officer, or Specially Commissioned Washington Peace Officer as defined in Revised Code of Washington section 10.93.020.

(b) This section applies to any vessel or person in the navigable waters of the United States east of 123 degrees, 30 minutes West Longitude. (Datum: NAD 1983.)

(c) A tank ship protection zone exists around tank ships at all times in the navigable waters of the United States, whether the tank ship is underway, anchored, or moored.

(d) The Navigation Rules shall apply at all times within a tank ship protection zone.

(e) All vessels within a tank ship protection zone shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the official patrol or tank ship master. No vessel or person located in the navigable waters of the United States is allowed within 100 yards of a tank ship, unless authorized by the official patrol or tank ship master.

(f) To request authorization to operate within 100 yards of a tank ship, contact the official patrol or tank ship master on VHF-FM channel 16 or 13.

(g) When conditions permit, the official patrol or tank ship master should:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a tank ship in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within 100 yards of passing a tank ship; and

(3) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of a moored or anchored tank ship with minimal delay consistent with security.

(h) *Exemption*. Public vessels as defined in paragraph (a) above are

exempt from complying with this regulation.

(i) *Enforcement.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this regulation. In the navigable waters of the United States, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to exercise effect control in the vicinity of a tank ship, any Federal Law Enforcement Officer or Washington Law Enforcement Officer may enforce the rules contained in this regulation pursuant to 33 CFR 6.04–11. In addition, the Captain of the Port may be assisted by other Federal, State or local agencies in enforcing this rule.

Dated: October 15, 2002.

D. Ellis,

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

[FR Doc. 02–27723 Filed 10–30–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7400–1]

Massachusetts: Extension of Interim Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The EPA is proposing to extend the expiration date from January 1, 2003 to January 1, 2006 for the interim authorization under the Resource Conservation and Recovery Act, of the Massachusetts program for regulating Cathode Ray Tubes (“CRTs”). Massachusetts was granted interim authorization to assume the responsibility under the Toxicity Characteristics Rule (“TC Rule”) for regulating CRTs, on November 15, 2000. That previously granted interim authorization is due to expire on January 1, 2003 and needs to be extended for the reasons explained below. EPA is publishing this rule to authorize the extension without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this extension during the comment period, the decision to extend the interim authorization will take effect. If we get comments that oppose this action, we will publish a document in the **Federal**

Register withdrawing this rule before it takes effect and the separate document in the proposed rules section of this **Federal Register** will serve as the proposal to authorize the changes.

DATES: This extension of the interim authorization will become effective on December 30, 2002 and remain in effect until January 1, 2006 unless EPA receives adverse written comment by December 2, 2002. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this extended authorization will not take immediate effect.

ADDRESSES: Send any written comments to Robin Biscaia, EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; telephone: (617) 918–1642. Documents related to EPA’s previous decision to grant interim authorization (regarding regulation of CRTs) and the materials which EPA used in now considering the extension (the “Administrative Record”) are available for inspection and copying during normal business hours at the following locations: Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9 a.m. to 5 p.m., telephone: (617) 292–5802; or EPA New England Library, One Congress Street—11th Floor, Boston, MA 02114–2023, business hours: 10 a.m. to 3 p.m., Monday through Thursday, telephone: (617) 918–1990.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, Hazardous Waste Unit, Office of Ecosystems Protection, EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023, telephone: (617) 918–1642.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

Pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, states which have been authorized to administer the Federal hazardous waste program under RCRA section 3006(b), 42 U.S.C. 6926(b), have a continuing obligation to update their programs to meet revised Federal requirements. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA’s regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

For example, States must revise their programs to regulate the additional wastes determined to be hazardous as a result of using the Toxicity Characteristics Leaching Procedure (“TCLP”) test adopted by the EPA on March 29, 1990, in the TC Rule. 55 FR 11798. The EPA may grant final authorization to a State revision if it is equivalent to, consistent with, and no less stringent than Federal RCRA requirements.

In the alternative, as provided by RCRA section 3006(g), 42 U.S.C. 6926(g), for updated Federal requirements promulgated pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA), such as the TC Rule, the EPA may grant interim (*i.e.*, temporary) authorization to a State revision so long as it is *substantially* equivalent to Federal RCRA requirements.

B. What Decisions Have We Made in This Rule?

1. Background

The TC Rule grants authority over wastes which first became classified as hazardous as a result of using the “TCLP” test, such as many CRTs. *See* 55 FR 11798, 11847–11849 (March 29, 1990). CRTs are the glass picture tubes found inside television and computer monitors. Because of their high lead content, CRTs generally fail the TCLP test. Thus, under the EPA’s current regulations, CRTs generally become hazardous wastes when they are discarded (*e.g.*, when sent for disposal or reclamation rather than being reused). However, the EPA has recognized that certain widely generated wastes may pose lower risks during accumulation and transport than other hazardous wastes. Thus the EPA has listed certain wastes as Universal Wastes which are subject to reduced regulation and has allowed authorized States to add other appropriate wastes as Universal Wastes. *See* 40 CFR part 273.

On August 4, 2000, Massachusetts adopted regulations which revised its regulatory program as it relates to CRTs. The State adopted a three-part approach: (1) Intact CRTs being disposed are subject to full hazardous waste requirements (along with crushed or ground up CRTs); (2) intact CRTs that may still be reused (without reclamation) generally are considered commodities exempt from hazardous waste requirements; and, finally, (3) intact CRTs which will not be reused, but which instead will be crushed and recycled (*i.e.*, as spent materials being reclaimed), are subject to reduced