

## 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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Section 165.T05–093 is reinstated and revised to read as follows:

### § 165.T05–093 Security Zone; Three Mile Island Generating Station, Susquehanna River, York County, Pennsylvania.

(a) *Location.* The following area is a security zone: The waters of the Susquehanna River in the vicinity of the Three Mile Island Generating Station bounded by a line drawn from a point located at 40°09'14.74" N, 076°43'40.77" W to 40°09'14.74" N, 076°43'42.22" W, thence to 40°09'16.67" N, 076°43'42.22" W, thence to 40°09'16.67" N, 076°43'40.77" W. All coordinates reference Datum: NAD 1983.

(b) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in § 165.33 of this part.

(2) No person or vessel may enter or navigate within this security zone unless authorized to do so by the Coast Guard or designated representative. Any person or vessel authorized to enter the security zone must operate in strict conformance with any directions given by the Coast Guard or designated representative and leave the security zone immediately if the Coast Guard or designated representative so orders.

(3) The Coast Guard or designated representative enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271–4807.

(4) The Captain of the Port will notify the public of any changes in the status of this security zone by Marine Safety Radio Broadcast on VHF–FM marine band radio, channel 22 (157.1 MHz).

(c) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commanding Officer of the Coast Guard Marine Safety Office/Group Philadelphia or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act as a designated representative on his behalf.

(d) *Effective period.* This section is effective from 5 p.m. (EDT) on May 13, 2003, through 11:59 p.m. (EST) on February 29, 2004.

Dated: January 16, 2004.

**Jonathan D. Sarubbi,**  
*Captain, U.S. Coast Guard, Captain of the Port Philadelphia.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05–04–011]

RIN 1625–AA00

### Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing all waters surrounding P/V MAASDAM, to ensure the security of the vessel during inbound and outbound transits in the Port of Hampton Roads, and while the vessel is berthed at Nauticus International Terminal. The security zone will extend in a 500-yard radius around P/V MAASDAM and require that all vessels transiting within 500 yards of P/V MAASDAM operate only at the minimum speed necessary to maintain course. No vessels are allowed within 100 yards of P/V MAASDAM without authorization by the Captain of the Port, Hampton Roads, or his designated representative.

**DATES:** This rule is effective from January 20, 2004, to April 24, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05–04–011 and are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Suite 700, Norfolk, Virginia, 23510, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Mike Dolan, project officer, USCG Marine Safety Office Hampton Roads, at (757) 668–5590.

#### 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), the Coast Guard finds that good cause exists for not publishing an NPRM. The Holland America cruise line only recently finalized arrangements with

Federal and local agencies to allow the P/V MAASDAM to conduct regular passenger cruises from Norfolk. As a result, the Coast Guard received the final schedule for the MAASDAM in January 2004. Coast Guard policy dictates that the Captain of the Port will provide for the security of high-capacity passenger vessels, and this security zone is necessary for that purpose.

Publishing an NPRM, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to protect this vessel from potential security threats. For similar reasons, 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**.

#### Background and Purpose

Following terrorist attacks on the United States in September 2001, there is a heightened awareness that vessels or persons could launch subversive activity against passenger ships. These regulations are necessary to protect the vessel, its passengers, and its crew from these potential threats. The Coast Guard is establishing a temporary security zone to ensure the vessel's safe inbound and outbound transits, and to protect the vessel while moored at Nauticus International Terminal.

#### Discussion of Rule

The Coast Guard is establishing temporary security zones to ensure safe transits and port calls for the P/V MAASDAM. The security zones will be activated while the P/V MAASDAM transits in the Port of Hampton Roads, and while it is berthed at Nauticus International Terminal. This rule is effective from January 20, 2004, to April 24, 2004. The security zone will extend in a 500-yard radius around P/V MAASDAM. All vessels within 500 yards must operate only at the minimum speed necessary to maintain course. No vessels are allowed within 100 yards of P/V MAASDAM without authorization by the Captain of the Port, Hampton Roads, or his designated representative. This rule will provide for increased security of the vessel and other vessels transiting in the area, and will allow the uninterrupted flow of commerce in the Port of Hampton Roads. Public notifications will be made prior to the transit via marine information broadcasts.

#### 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 Homeland Security (DHS).

Although this rule restricts access to the regulated area, the effect of this rule will not be significant because: (i) The COTP may authorize access to the security zone; (ii) the security zones will be in effect for a limited duration; and (iii) 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" include 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 transit or anchor within a 500-yard radius of P/V MAASDAM as she transits the Port of Hampton Roads, and while she is berthed at the Nauticus International Terminal.

### 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 could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 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 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. 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 analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because it creates temporary security zones. A final "Environmental Analysis Check List" and a final "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, subpart F, 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; 50 U.S.C 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05-011, to read as follows:

**§ 165.T05-011 Security Zone: Chesapeake Bay, Hampton Roads and Elizabeth River, Virginia.**

(a) *Location.* The following area is a security zone: All waters within a 500-yard radius around the P/V MAASDAM, while the vessel transits through the Captain of the Port Hampton Roads zone, and while berthed at Nauticus International Terminal.

(b) *Definitions:* The *designated representative of the Captain of the Port* is any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Contact information.* The Captain of the Port, Hampton Roads and the Command Duty Officer at the Marine Safety Office Hampton Roads, Norfolk, Virginia, can be contacted at telephone Number (757) 668-5555 or (757) 484-8192. The Coast Guard vessels enforcing the security zone can be contacted on VHF-FM channels 13 and 16.

(d) *Regulation:* (1) Under § 165.33, vessels are prohibited from entering within 100 yards of the P/V MAASDAM, unless authorized by the Captain of the Port, Hampton Roads, Virginia, or his designated representatives. Vessels within 500 yards of the P/V MAASDAM must operate only at the minimum speed necessary to maintain course.

(2) The operator of any vessel in any part of this security zone must:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(iii) Operate at minimum speed within a 500-yard radius of P/V MAASDAM.

(e) *Effective period:* This section is effective from January 20, 2004, to April 24, 2004.

Dated: January 16, 2004.

**Robert R. O'Brien, Jr.,**

*Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[WV063-6032a; FRL-7612-9]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; MOBILE6-Based Motor Vehicle Emission Budgets for Greenbrier County and the Charleston, Huntington, and Parkersburg 1-Hour Ozone Maintenance Areas**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve State Implementation Plan (SIP) revisions submitted by the State of West Virginia. The revisions amend the 1-hour ozone maintenance plans for Greenbrier County and the Charleston, Huntington and Parkersburg areas. These revisions amend the maintenance plans' base year and 2005 highway mobile volatile organic compound (VOC) and nitrogen oxide (NO<sub>x</sub>) emission inventories and the 2005 motor vehicle emissions budgets (MVEBs) to reflect the use of MOBILE6. These revisions also reallocate a portion of each plans' safety margins which results in an increase in the MVEBs. The revised plans continue to demonstrate maintenance of the 1-hour national ambient air quality standard (NAAQS) for ozone. EPA is approving these SIP revisions to the West Virginia maintenance plans in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on April 12, 2004, without further notice, unless EPA receives adverse written comment by March 11, 2004. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Larry Budney, Energy, Radiation and Indoor Environment Branch, Mailcode 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to [budney.larry@epa.gov](mailto:budney.larry@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in Part III of the **SUPPLEMENTARY INFORMATION** section. Copies of the documents relevant to this

action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE., Charleston, West Virginia 25304-2943.

**FOR FURTHER INFORMATION CONTACT:** Larry Budney, (215) 814-2184, or by e-mail at [budney.larry@epa.gov](mailto:budney.larry@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On August 4, 1995 (60 FR 39911), September 6, 1994 (59 FR 45985), December 21, 1994 (59 FR 65719) and September 6, 1994 (59 FR 45978), respectively, EPA redesignated Greenbrier County and the Charleston, Huntington and Parkersburg areas of West Virginia to attainment for the 1-hour ozone NAAQS. For each of those areas, the redesignations included approvals of 1-hour ozone maintenance plans, which identify on-road MVEBs for VOCs and NO<sub>x</sub>, which are ozone precursors. The MVEBs contained in those maintenance plans were based upon MOBILE5, which was the latest EPA on-road motor vehicle emission factor model available at the time.

The MOBILE model is an EPA emission factor model for estimating pollutant emissions from on-road motor vehicles. The MOBILE model calculates emissions of VOCs and NO<sub>x</sub> from passenger cars, motorcycles, buses, and light-duty and heavy-duty trucks. The model accounts for the emission impacts of factors such as changes in vehicle emission standards, changes in vehicle populations and activity, and various local conditions such as temperature, humidity, fuel quality, and air quality programs. The MOBILE model is used to calculate current and future inventories of motor vehicle emissions at the national and local level. These inventories are used to make decisions about air pollution policies and programs at the local, State and national level. MOBILE-based inventories are also used in demonstrating how the Clean Air Act's (the Act's) requirements for SIPs and transportation conformity are met.

The MOBILE model was first developed in 1978. It has been updated several times to reflect changes in the vehicle fleet and fuels, to incorporate EPA's growing understanding of vehicle emissions, and to address new emission regulations and modeling needs. EPA released MOBILE6, the latest version of