

require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary security zone. 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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05-0050 to read as follows:

#### § 165.T05-0050 Security Zone; Potomac River, Washington Channel, Washington, DC.

(a) *Location.* The following area is a security zone: All waters of the Washington Channel, from shoreline to shoreline, bounded on the north along latitude 38°52'03" N and bounded on the south along latitude 38°51'50" N (North American Datum 1983).

(b) *Definitions.* As used in this section:

*Captain of the Port Baltimore* means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

*Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the security zone described in paragraph (a) of this section.

(c) *Regulations.* (1) The general security zone regulations found in 33 CFR 165.33 apply to the security zone created by this temporary section, § 165.T05.0050.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. Vessels already at berth, mooring, or anchor at the time the security zone is implemented do not have to depart the security zone. All vessels underway within this security zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the security zone must first request authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing lights, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(4) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and

enforcement of the zone by Federal, State, and local agencies.

(d) *Enforcement period.* This section will be enforced from 6 a.m. through 5 p.m. on May 25, 2010.

Dated: April 8, 2010.

**Mark P. O'Malley,**

*Captain, U.S. Coast Guard, Captain of the Port Baltimore Maryland.*

[FR Doc. 2010-9193 Filed 4-20-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0196]

RIN 1625-AA87

#### Security Zone; Portland Rose Festival Fleet Week, Willamette River, Portland, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a security zone encompassing all waters of the Willamette River between the Hawthorne and Steel Bridges in Portland, Oregon during the Portland Rose Festival Fleet Week from June 2, 2010, through June 7, 2010. The security zone is necessary to help ensure the security of the military and other vessels participating in Fleet Week as well as the maritime public in general and will do so by prohibiting any person or vessel from entering or remaining in the security zone unless authorized by the Captain of the Port or his designated representatives.

**DATES:** This rule is effective from June 2, 2010, through June 7, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0196 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0196 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 MST1 Jaime Sayers, Waterways Management Division, Coast

Guard Sector Portland; telephone 503-240-9319, e-mail [Jaime.A.Sayers@uscg.mil](mailto:Jaime.A.Sayers@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.

There is a need to provide a security zone for the 2010 Portland Rose Festival Fleet Week, and there is insufficient time to publish a notice of proposed rulemaking, respond to comments, and issue an effective rule at least 30-days before June 2, the start of this year's Fleet Week. Therefore, it is impracticable to publish an NPRM and it would be contrary to public interest not to issue this temporary final rule in time for it to be published at least 30-days before the event.

##### Basis and Purpose

The annual Portland Rose Festival Fleet Week will be taking place this year from June 2, 2010, through June 7, 2010. Fleet Week includes visits by a variety of United States and foreign military and government vessels. The vessels will be transiting the Columbia River and mooring up for display on the banks of the Willamette River between the Hawthorne and Steel Bridges. Due to the security concerns inherent for such vessels, the security zone created by this rule is necessary to help ensure the security of the vessels themselves as well as the maritime public in general.

This year, the Coast Guard is issuing a temporary final rule instead of an annual enforcement notice. Although the same security zone created by this rule is already codified at 33 CFR 165.1312, the enforcement dates contained in that section are not inclusive of when the Portland Rose Festival Fleet Week is actually taking place this year.

##### Discussion of Rule

The security zone created by this rule will encompass all waters of the Willamette River between the Hawthorne and Steel Bridges in Portland, Oregon. This zone will be effective during the 2010 Portland Rose Festival Fleet Week, from June 2, 2010, through June 7, 2010. All persons and vessels will be prohibited from entering or remaining in the security zone unless authorized by the Captain of the Port or his designated representatives.

##### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard has made this determination based on the fact that the security zone will only be in effect for the Portland Rose Festival Fleet Week and maritime traffic may be able to enter the zone if authorized by the Captain of the Port or his designated representatives.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to operate in the area covered by the security zone. The security zone will not have a significant economic impact on a substantial number of small entities, however, because the security zone will only be in effect for the Portland Rose Festival Fleet Week and maritime traffic may be able to enter the zone if authorized by

the Captain of the Port or his designated representatives.

##### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

##### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

##### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

##### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

##### Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or

adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.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 that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a security zone.

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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13-136 to read as follows:

#### § 165.T13-136 Security Zone; Portland Rose Festival Fleet Week, Willamette River, Portland, Oregon.

(a) *Location.* The following area is a security zone: All waters of the Willamette River, from surface to bottom, between the Hawthorne and Steel Bridges.

(b) *Regulations.* Under 33 CFR part 165, subpart D, no person or vessel may enter or remain in the security zone created by this section without the authorization of the Captain of the Port or his designated representatives. Subpart D has other requirements applicable to the security zone created

by this section. Permission to enter the security zone created by this section may be requested by contacting the Captain of the Port at 503-240-9311 or on VHF channels 16 or 22.

(c) *Effective period.* This section is effective from June 2, 2010, through June 7, 2010.

Dated: April 9, 2010.

**F.G. Myer,**

*Captain, U.S. Coast Guard, Captain of the Port, Portland.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2010-0502-201011; FRL-9139-1]

### Approval and Promulgation of Implementation Plans; Revisions to the Kentucky State Implementation Plan

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve the transportation conformity revisions to the Kentucky State Implementation Plan (SIP) submitted by the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet's Division of Air Quality (KY DAQ). This addition consists of transportation conformity criteria and procedures related to interagency consultation and enforceability of certain transportation-related control measures and mitigation measures. The intended effect is to establish the transportation conformity criteria and procedures in the Kentucky SIP. This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** *Effective Date:* This rule will be effective May 21, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2010-0502. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either