

Par. 4. Section 1.401(b)-1 is further amended as follows:

1. Paragraph (b)(2)(iii) is removed.
2. Paragraphs (b)(3), (c) and (d)(1)(iv) are added. The additions read as follows:

§ 1.401(b)-1 Certain retroactive changes in plan.

* * * * *

(b) * * *

(3) A plan provision described in § 1.401(b)-1T(b)(3).

(c) *Special rules applicable to disqualifying provisions.* For special rules applicable to disqualifying provisions, see § 1.401(b)-1T(c).

(d) * * *

(1) * * *

(iv) In the case of a disqualifying provision described in § 1.401(b)-1T(b)(3), the date described in § 1.401(b)-1T(d)(1)(iv) or (v), whichever applies to the disqualifying provision.

Par. 5. Section 1.401(b)-1T is added to read as follows:

§ 1.401(b)-1T Certain retroactive changes in plan (temporary).

(a) [Reserved]. For further information, see § 1.401(b)-1(a).

(b) *Disqualifying provisions.* For purposes of § 1.401(b)-1, with respect to a plan described in § 1.401(b)-1(a), the term "disqualifying provision" means:

(1) and (2) [Reserved]. For further information, see § 1.401(b)-1(b) (1) and (2).

(3) A plan provision designated by the Commissioner, at the

Commissioner's discretion, as a disqualifying provision that either—

(i) Results in the failure of the plan to satisfy the qualification requirements of the Code by reason of a change in those requirements; or

(ii) Is integral to a qualification requirement of the Code that has been changed.

(c) *Special rules applicable to disqualifying provisions—*

(1) *Absence of plan provision.* For purposes of paragraph (b)(3) of this section and § 1.401(b)-1(b)(2), a disqualifying provision includes the absence from a plan of a provision required by, or, if applicable, integral to the applicable change to the qualification requirements of the Internal Revenue Code, if the plan was in effect on the date the change became effective with respect to the plan.

(2) *Method of designating of disqualifying provisions.* The Commissioner may designate a plan provision as a disqualifying provision pursuant to paragraph (b)(3) of this section only in revenue rulings, notices, and other guidance published in the

Internal Revenue Bulletin. See § 601.601(d)(2)(ii)(b) of this chapter.

(3) *Authority to impose limitations.* In the case of a provision that has been designated as a disqualifying provision by the Commissioner pursuant to paragraph (b)(3) of this section, the Commissioner may impose limits and provide additional rules regarding the amendments that may be made with respect to that disqualifying provision during the remedial amendment period. The Commissioner may impose these limits and provide these additional rules only in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See § 601.601(d)(2)(ii)(b) of this chapter.

(d) *Remedial amendment period.* (1) The remedial amendment period with respect to a disqualifying provision begins:

(i) through (iii) [Reserved]. For further information, see § 1.401(b)-1(d)(1) (i) through (iii).

(iv) In the case of a disqualifying provision described in paragraph (b)(3)(i) of this section, the date on which the change effected by an amendment to the Internal Revenue Code became effective with respect to the plan, or

(v) In the case of a disqualifying provision described in paragraph (b)(3)(ii) of this section, the first day on which the plan was operated in accordance with such provision, as amended, unless another time is specified by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See § 601.601(d)(2)(ii)(b) of this chapter.

(2) [Reserved]

Dated: July 22, 1997.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Jacksonville 97-035]

RIN 2115-AA97

Security Zone; Port Canaveral, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a 200 yard moving security zone around HMS Vigilant while the vessel is underway in U.S. waters in the

vicinity of Port Canaveral, Florida. The zone is needed to safeguard HMS Vigilant against destruction from sabotage or other subversive acts, accidents, or other causes of a similar nature while the vessel transits through the Port Canaveral Entrance Channel to and from the East Basin in Port Canaveral, Florida. Entry into this zone is prohibited unless authorized by the Captain of the Port.

DATES: These regulations become effective at 7 a.m. on July 31, 1997, and terminate at 7 a.m. on November 1, 1997, unless terminated earlier by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT:

Ensign C. A. Purtell, Waterways Management Officer, USCG Marine Safety Office, Jacksonville at (904) 232-2957.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The event requiring this regulation is the arrival and departure of HMS Vigilant into U.S. waters enroute to and from Port Canaveral, Florida. The vessel is scheduled to make multiple entries and exits into the Port of Canaveral between August 1 and October 31, 1997. A security zone is necessary to safeguard HMS Vigilant from sabotage, or other subversive acts, accidents, or other causes of a similar nature within U.S. waters. The security zone will be enforced by representatives of the Captain of the Port Jacksonville, Florida. The Captain of the Port may be assisted by other Federal agencies and civil law enforcement authorities.

The security zone will be established in an area 200 yards in all directions around HMS Vigilant when entering or departing Port Canaveral. The security zone will be enforced for a period of approximately two hours during the arrival and departure of this vessel. The Coast Guard will assign a patrol and issue a Broadcast Notice to Mariners to advise marine interests of the security zone in advance of the vessel's arrival and departure. This security zone will be enforced only during the time indicated in the Broadcast Notice to Mariners.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential damage to HMS Vigilant as the

vessel is scheduled to arrive in less than two weeks.

Regulatory Evaluation

This proposal 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. It has been exempted from review by the Office of Management and Budget 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 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the limited duration of the moving security zone, the extensive advisories that will be made to the affected maritime community and the minimal restrictions the regulations will place on vessel traffic. These regulations will be in effect for a total of approximately four hours per port call for the vessel.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities because of the short duration of the disruption to regular navigation.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal and has concluded under paragraph 2.B.2.e(34)(g) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), that this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Temporary Final Regulation

In consideration of the foregoing, the Coast Guard amends Subpart C of Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new section 165.T07-035 is added to read as follows:

§ 165.T07-035 Security Zone: Port Canaveral Entrance Channel, Port Canaveral, FL.

(a) *Regulated Area.* A moving security zone is established in the following area:

(1) The waters around HMS Vigilant when entering Port Canaveral in an area 200 yards in all directions, beginning at the Port Canaveral Ship Channel, Approach Channel Lighted Whistle Buoy #3, (LLN 8640), position 28°31'50" N, 080°22'31" W and continues until the vessel is safely moored at the Port Canaveral East Turning Basin. All coordinates referenced use datum: NAD 83.

(2) The waters around HMS Vigilant when the vessel leaves her berth at the Port Canaveral East Turning Basin in an area 200 yards in all directions, until it exits the Port Canaveral Ship Channel, Approach Channel Lighted Whistle Buoy #3, (LLN 8640), position 28°31'50"N, 080°22'31"W. All coordinates referenced use datum: NAD 83.

(b) *Regulations.*

(1) No person or vessel may enter, transit, or remain in the security zone unless authorized by the Captain of the Port, Jacksonville, Florida, or a Coast

Guard commissioned, warrant, or petty officer designated by him.

(2) Vessels encountering emergencies which require transit through the moving security zone should contact the security zone patrol craft on VHF Channel 16. In the event of an emergency, the security zone patrol craft may authorize a vessel to transit through the security zone with a designated escort.

(3) All persons and vessels shall comply with the instructions of on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, or petty officers of the U.S. Coast Guard. Coast Guard Auxiliary and local or state law enforcement officials may be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective Dates.* These regulations become effective at 7 a.m. on July 31, 1997, and terminate at 7 a.m. on November 1, 1997, unless terminated earlier by the Captain of the Port.

Dated: July 23, 1997.

Donald S. Lewis,

Captain, U.S. Coast Guard, Captain of the Port, Jacksonville, FL.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[ME47-01-7002a; A-1-FRL-5867-8]

Approval and Promulgation of Air Quality Implementation Plans; Maine; (Hancock and Waldo Counties Ozone Maintenance Plan Revision—Motor Vehicle Emissions Budgets)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes explicit year 2006 motor vehicle emissions budgets [Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x)] for the Hancock and Waldo counties ozone maintenance area to be used in determining transportation conformity. This action is being taken in accordance with the Clean Air Act (CAA or the Act). **DATES:** This action will become effective on September 30, 1997, unless EPA receives adverse or critical comments by September 2, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.