

requirements, Security measures, Waterways.

■ For 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; 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 § 165.835 to read as follows:

#### **§ 165.835 Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL.**

(a) *Definition.* As used in this section—

*Cruise Ship* means a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128.

(b) *Location.* The following areas are security zones: all waters of the Port of Mobile and Mobile Ship Channel—

(1) Within 100 yards of a cruise ship that is transiting shoreward of the Mobile Sea Buoy (located in approximate position 28°07'50" N, 88°04'12" W; NAD 83), and

(2) Within 25 yards of a cruise ship that is moored shoreward of the Mobile Sea Buoy.

(c) *Periods of enforcement.* This rule will only be enforced when a cruise ship is transiting the Mobile Ship Channel shoreward of the Mobile Sea Buoy, while transiting in the Port of Mobile, or while moored in the Port of Mobile. The Captain of the Port Mobile or a designated representative would inform the public through broadcast notice to mariners of the enforcement periods for the security zone.

(d) *Regulations.* (1) Under § 165.33 of this part, entry into a security zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) While a cruise ship is transiting on the Mobile Ship Channel shoreward of the Mobile Sea Buoy, and while transiting in the Port of Mobile, all persons and vessels are prohibited from entering within 100 yards of a cruise ship.

(3) While a cruise ship is moored in the Port of Mobile, all persons and

vessels are prohibited from entering within 25 yards of a cruise ship.

(4) Persons or vessels that desire to enter into the security zone for the purpose of passing or overtaking a cruise ship that is in transit on the Mobile Ship Channel or in the Port of Mobile must contact the on-scene Coast Guard representative, request permission to conduct such action, and receive authorization from the on-scene Coast Guard representative prior to initiating such action. The on-scene Coast Guard representative may be contacted on VHF–FM channel 16.

(5) All persons and vessels authorized to enter into this security zone must obey any direction or order of the Captain of the Port or designated representative. The Captain of the Port Mobile may be contacted by telephone at (251) 441–5976. The on-scene Coast Guard representative may be contacted on VHF–FM channel 16.

(6) All persons and vessels shall comply with the instructions of the Captain of the Port Mobile and designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: March 15, 2005.

**Steven D. Hardy,**

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

[FR Doc. 05–8072 Filed 4–21–05; 8:45 am]

**BILLING CODE 4910–15–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

**[COTP Mobile–05–007]**

**RIN 1625–AA87**

#### **Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary security zones around all cruise ships while transiting or moored in the Port of Mobile and Mobile Ship Channel shoreward of the Mobile Sea Buoy. These security zones are needed to ensure the safety and security of these vessels. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port Mobile, or a designated representative.

**DATES:** This rule is effective from 6 p.m. on April 14, 2005, through May 23, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP Mobile–05–007] and are available for inspection or copying at Marine Safety Office Mobile, Brookley Complex, Bldg 102, South Broad Street, Mobile, AL 36615–1390 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (LT) Maurice York, Operations Department, Marine Safety Office Mobile, at (251) 441–5940.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On November 12, 2004, the Coast Guard published a temporary final rule (TFR) entitled “Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL” (69 FR 65373). This temporary final rule will expire at 6 p.m. on April 14, 2005. On January 7, 2005, we published a notice of proposed rulemaking (NPRM) entitled “Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL” (70 FR 1400). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. That final rule is being published elsewhere in this same issue of the **Federal Register** and will become effective on May 23, 2005.

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. It took longer to resolve issues related to the final rule than we expected at the time we issued the last TFR. Because the current TFR expires at 6 p.m. on April 14, 2005, this new TFR is necessary because it would be contrary to public interest not to maintain a security zone around transiting cruise ships in the Mobile Ship Channel or Port of Mobile until the final rule becomes effective on May 23, 2005, at which time this temporary rule will be removed.

##### **Background and Purpose**

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. The President has continued the national emergencies he declared following those attacks (69 FR 55313 (Sep. 13, 2004) (continuing the emergency declared with respect to terrorist attacks); 69 FR 56923 (Sep. 22, 2004) (continuing 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 terrorist attacks (E.O. 13,273, 67 FR 56215 (Sep. 3, 2002) (security of U.S. endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations)). In response to these terrorist acts and warnings, heightened awareness for the security and safety of all vessels, ports, and harbors is necessary. Due to the increased security concerns surrounding the transit of cruise ships, the Captain of the Port Mobile is establishing temporary security zones around all cruise ships while such vessels are transiting the Mobile Ship Channel or Port of Mobile, and while moored in the Port of Mobile.

#### Discussion of Rule

This temporary final rule is identical to the previous rule published in the **Federal Register** on November 12, 2004 (69 FR 65373). The Coast Guard was unable to publish an extension to this rule. However, the practical effect of this new temporary final rule is the same and continues the security zone currently in effect.

The Coast Guard is establishing temporary security zones for the Port of Mobile and Mobile Ship channel. This rule establishes security zones that prohibits movement within 25 yards of all cruise ships while moored in the Port of Mobile, and prohibits movement within 100 yards of any cruise ship while transiting the Mobile Ship Channel or the Port of Mobile. For the purpose of this rule the term "cruise ship" is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128.

These security zones will be enforced when a cruise ship transiting inbound passes the Mobile Sea Buoy in approximate position 28°07'50" N, 88°04'12" W, at all times during transit through the Mobile Ship Channel and Port of Mobile, and while moored in the Port of Mobile. A security zone will exist during each cruise ship's transit outbound the Port of Mobile and the Mobile Ship Channel. Enforcement of these security zones will cease once the

cruise ship passes the Mobile Sea Buoy on its outbound voyage.

These security zones are needed to protect the safety of life, property and the environment in the area. All vessels are prohibited from moving within these zones unless specifically authorized by the Captain of the Port Mobile, or a designated representative.

Persons on vessels that desire to enter into one of these security zones for the purpose of passing or overtaking a cruise ship that is in transit on the Mobile Ship Channel or in the Port of Mobile must contact the on-scene Coast Guard representative, request permission to conduct such action, and receive authorization from the on-scene Coast Guard representative prior to initiating such action. The on-scene Coast Guard representative may be contacted on VHF-FM channel 16. All persons and vessels authorized to enter into a security zone shall obey any direction or order of the Captain of the Port or designated representative.

The Captain of the Port Mobile or a designated representative will inform the public through broadcast notice to mariners of the enforcement periods for these security zones.

#### 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).

These security zones will only be enforced while cruise ships are located shoreward of the Mobile Sea Buoy, are transiting the Mobile Ship Channel, and are moored in the Port of Mobile. Once a cruise ship is moored in the Port of Mobile, the security zone will be reduced to only 25 yards. While the cruise ship is moored, other vessels will be able to safely transit around this zone provided they approach no closer than 25 yards. Additionally, while a cruise ship is in transit on the Mobile Ship Channel or in the Port of Mobile, the Captain of the Port or a designated representative may allow other persons or vessels to enter into the security zone for the purpose of passing or overtaking a cruise ship if such persons or vessels obtain permission from the on-scene Coast Guard representative prior to initiating such action.

Notifications of the enforcement periods of these security zones will be

made to the marine community through broadcast notice to mariners. The impacts on routine navigation are expected to be minimal.

#### 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 for the reasons enumerated under the Regulatory Evaluation section of this rule.

If you are a small business entity and are significantly affected by this regulation please contact LT Maurice York, Operations Department, Marine Safety Office Mobile, at (251) 441–5940.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so they may 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 this rule 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 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

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.

#### 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 Commandant Instruction M16475.ID, 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 this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA).

A final “Environmental Analysis Checklist” and a final “Categorical Exclusion Determination” will be available for inspection or copying where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Ppart 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; 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. A new § 165.T08–037 is added to read as follows:

#### § 165.T08–037 Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL.

(a) *Definition.* As used in this section—

*Cruise ship* means a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128.

(b) *Location.* The following areas are security zones: All waters of the Port of Mobile and Mobile Ship Channel—

(1) Within 100 yards of a cruise ship that is transiting shoreward of the Mobile Sea Buoy (located in approximate position 28°07′50″ N, 88°04′12″ W; NAD 83), and

(2) Within 25 yards of a cruise ship that is moored shoreward of the Mobile Sea Buoy.

(c) *Effective period.* This section is effective from 6 p.m. on April 14, 2005, through May 23, 2005.

(d) *Periods of Enforcement.* This rule will only be enforced when a cruise ship is transiting the Mobile Ship Channel shoreward of the Mobile Sea Buoy, while transiting in the Port of Mobile, or while moored in the Port of Mobile.

(e) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into a security zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) While a cruise ship is transiting on the Mobile Ship Channel shoreward of the Mobile Sea Buoy, and while transiting in the Port of Mobile, all persons and vessels are prohibited from entering within 100 yards of a cruise ship.

(3) While a cruise ship is moored in the Port of Mobile, all persons and vessels are prohibited from entering within 25 yards of a cruise ship.

(4) Persons or vessels that desire to enter into the security zone for the purpose of passing or overtaking a cruise ship that is in transit on the

Mobile Ship Channel or in the Port of Mobile must contact the on-scene Coast Guard representative, request permission to conduct such action, and receive authorization from the on-scene Coast Guard representative prior to initiating such action. The on-scene Coast Guard representative may be contacted on VHF-FM channel 16.

(5) All persons and vessels authorized to enter into this security zone shall obey any direction or order of the Captain of the Port or designated representative. The Captain of the Port Mobile may be contacted by telephone at (251) 441-5976. The on-scene Coast Guard representative may be contacted on VHF-FM channel 16.

(6) All persons and vessels shall comply with the instructions of the Captain of the Port Mobile and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: April 12, 2005.

**J.D. Bjostad,**

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

[FR Doc. 05-8073 Filed 4-21-05; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06-OAR-2004-TX-0002; FRL-7902-8]

#### Approval and Promulgation of Implementation Plans; Texas; Memorandum of Agreement Between Texas Council on Environmental Quality and the North Central Texas Council of Governments Providing Emissions Offsets to Dallas-Fort Worth International Airport

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Texas on February 23, 2004. This revision concerns the Dallas-Fort Worth ozone nonattainment area. Specifically, EPA is approving incorporation of a Memorandum of Agreement (MOA) between the Texas Commission on Environmental Quality (TCEQ) and the North Central Texas Council of Governments (NCTCOG) into the SIP. This MOA commits the NCTCOG to provide the Dallas-Fort Worth International Airport (DFWIA) with

emissions offsets in the amount of 0.18 tons per day (tpd) of nitrogen oxides (NO<sub>x</sub>) and 0.04 tpd of volatile organic compounds (VOCs) in 2007, and to adjust the modeled 2015 on-road emission estimates to reflect an increase of 1.17 tpd of NO<sub>x</sub> and 0.26 tpd of VOCs, which must be accommodated in future transportation conformity determinations. This action is necessary in order for the Federal Aviation Administration (FAA) to address requirements under the general conformity regulations for the proposed DFWIA project. The rationale for the final approval action and other information are provided in this document.

**DATES:** This rule is effective on May 23, 2005.

**ADDRESSES:** EPA has established a docket for this action under Regional Materials in EDocket (RME) Docket ID No. R06-OAR-2004-TX-0002. All documents in the docket are listed in the Regional Materials in EDocket (RME) index at <http://docket.epa.gov/rmepub/>; once in the system, select "quick search," then key in the appropriate RME Docket identification number. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information the disclosure of which 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 electronically in RME or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

#### FOR FURTHER INFORMATION CONTACT:

Peggy Wade, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7247; fax number 214-665-7263; e-mail address [wade.peggy@epa.gov](mailto:wade.peggy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

#### Outline

- I. What Action Is EPA Taking?
- II. What Is the Background for This Action?
- III. What Did the State Submit and How Did We Evaluate It?
- IV. Responses to Comments on the Direct Final Action
- V. Final Action
- VI. Statutory and Executive Order Reviews

#### I. What Action Is EPA Taking?

On January 14, 2004, TCEQ adopted a Memorandum of Agreement (MOA) between TCEQ and NCTCOG's Regional Transportation Council (RTC). At the same time, TCEQ adopted a revision to the Texas SIP to incorporate this MOA into it, and has since submitted this SIP revision to EPA for approval. This MOA commits the RTC to provide the DFWIA with emissions offsets in the amount of 0.18 tpd of NO<sub>x</sub> and 0.04 tpd of VOCs in 2007 and to adjust the modeled 2015 on-road mobile source emissions estimates by an increase of 1.17 tpd and 0.26 tpd of NO<sub>x</sub> and VOCs, respectively, in future transportation conformity demonstrations by the FAA.

EPA is approving the incorporation of this MOA into the DFW SIP. This action by EPA will ensure that the MOA, and the resulting emission offsets, are enforceable at both the federal and state levels.

#### II. What Is the Background for This Action?

The DFW area is a nonattainment area for the air pollutant ozone, and is operating under a SIP to control the emissions of NO<sub>x</sub> and VOCs, which are ozone precursor pollutants. Under the Texas general conformity rules (30 TAC 101.30), which implement the general conformity requirements of section 176(c) of the Clean Air Act, certain types of Federal actions, such as FAA approval of environmental documents developed in accordance with the National Environmental Policy Act (NEPA), require a determination as to whether the total emissions from the action conform with the applicable SIP, unless the resultant emissions are expected to be below the *de minimis* levels identified in these regulations (30 TAC 101.30(c)(2)); see 40 CFR