

3084–0068. OMB has extended its approval for its recordkeeping and reporting requirements until September 30, 2004. The amendments now being adopted do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305 [AMENDED]

■ Accordingly, 16 CFR Part 305 is amended as follows:

■ 1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

■ 2. Section 305.9(a) is revised to read as follows:

§ 305.9 Representative average unit energy costs.

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this part.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2004)

Type of energy	In commonly used terms	As required by DOE test procedure	Dollars per million Btu ¹
Electricity	8.60 ¢/kWh ^{2,3}	\$0.0860/kWh	25.20
Natural Gas	91.0 ¢/therm ⁴ or \$9.35/MCF ^{5,6}	0.00000910/Btu	9.10
No. 2 heating oil	\$1.28/gallon ⁷	0.00000923/Btu	9.23
Propane	\$1.23/gallon ⁸	0.00001346/Btu	13.46
Kerosene	\$1.54/gallon ⁹	0.00001141/Btu	\$11.41

¹ Btu stands for British thermal unit.

² kWh stands for kiloWatt hour.

³ 1 kWh = 3,412 Btu.

⁴ 1 therm = 100,000 Btu. Natural gas prices include taxes.

⁵ MCF stands for 1,000 cubic feet.

⁶ For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,027 Btu.

⁷ For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.

⁸ For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.

⁹ For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

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By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 04–9847 Filed 4–29–04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–04–012]

RIN 1625–AA00

Security and Safety Zone; M/V Spirit of Ontario, Lake Ontario, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a temporary security and safety zone for the M/V Spirit of Ontario, the new high-speed ferry that will regularly be transiting the navigable waters of Lake Ontario and the Genesee River, New York. This zone is necessary to protect smaller vessels from the effects of this large passenger vessel's propulsion and maneuvering systems, reduce the risk of collisions, and to protect the M/V Spirit of Ontario from

possible terrorist attacks. This security and safety zone is intended to restrict vessels from a portion of Lake Ontario and the Genesee River, NY.

DATES: This rule is effective April 20, 2004, until April 20, 2005. Comments and related material must be received on or before July 1, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD09–04–012 and are available for inspection or copying at Commanding Officer, Marine Safety Office Buffalo, 1 Fuhrmann Blvd., Buffalo, New York 14203 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lt. Craig A. Wyatt, MSO Buffalo, (716) 843–9570.

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 vessels and spectators from a new high-speed ferry operating out of Rochester, New York. This is the first high-speed ferry

of its kind on the Great Lakes. As such, the general boating public will be unfamiliar with the handling characteristics of such a large high-speed vessel in the area. The Captain of the Port Buffalo has determined that immediate temporary regulations are required to ensure the safety of vessels and spectators in this new environment.

In addition, immediate implementation of this rule is necessary to ensure the protection of the M/V Spirit of Ontario from threats posed by hostile entities and help protect maritime transportation and commerce. The events of September 11, 2001, as well as what has occurred since then, highlight the fact that additional security steps must be taken to protect the public from possible acts of terrorism. This security and safety zone is designed to minimally impact the public while providing a reasonable level of protection and safety.

In addition, after the Coast Guard becomes more familiar during daily operations of the high-speed ferry, the Coast Guard will pursue a permanent rule through normal notice and comment procedures. This will allow the public to give more valuable input after they have the opportunity to see first-hand the impact of hazards such as wake and jet-wash from the high-speed ferry. Furthermore, this temporary rule also allows the public to comment regarding the immediate impact of these

regulations. These comments may also aid in the development of permanent regulations.

Background and Purpose

This temporary final rule is being established to ensure that precautions are taken prior to the initial arrival and initial operations of the M/V Spirit of Ontario in late May, 2004. This safety and security zone will consist of two different exclusionary zones depending on the location of the high-speed ferry. In the Genesee River, the zone will consist of all navigable waters and adjacent shoreline within 25 yards of the vessel. On Lake Ontario, the zone will consist of all navigable waters within 100 yards of the high-speed ferry.

Vessels constrained by their draft are permitted to enter the exclusionary zone for the purposes of safe navigation. When vessels enter the zone under these circumstances, they should only maintain the minimum speed and course necessary for safe navigation.

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. It has not been reviewed by the Office of Management and Budget under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this rule restricts access to a portion of Lake Ontario and the Genesee River, the effect of this rule will not be significant because: (i) the zone is limited in size such that other vessels may pass safely outside the zone; (ii) the Captain of the Port, or the Captain of the Port's designated representative, which is the on-scene patrol commander may authorize vessels to pass within the exclusionary zone on a case by case basis.

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. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

Therefore, 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 would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to operate in the vicinity of the M/V Spirit of Ontario in the navigable waters of the United States. This rule would not have a significant economic impact on a substantial number of small entities for the following reasons: (i) The security and safety zones are limited in size and vessels may safely pass outside the zone; (ii) the Captain of the Port, or the Captain of the Port's designated representative, which is the on-scene patrol commander may authorize vessels to pass within the exclusionary zone on a case by case basis.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under ADDRESSES. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard received no requests for assistance.

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

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.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1D, that this rule is categorically excluded from further environmental documentation. This rule fits this categorical exclusion because it is a security and safety zone. A Categorical Exclusion Determination is available in the docket for inspection and copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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. From April 20, 2004, until April 20, 2005, add § 165.T09-012 to read as follows:

§ 165.T09-012 Security and Safety Zone; M/V Spirit of Ontario, Lake Ontario and adjacent waters, New York.

(a) *Location.* (1) *Genesee River.* The following area is designated as a security and safety zone: all navigable waters 25 yards in all directions of the M/V Spirit of Ontario once the vessel is in the Genesee River upstream of line

drawn between the Rochester Harbor Light and the East Pier Light.

(2) *Lake Ontario.* The following area is designated as a security and safety zone: all U.S. navigable waters of Lake Ontario 100 yards in all directions of the M/V Spirit of Ontario once the vessel is lake-side (in Lake Ontario) of line drawn between the Rochester Harbor Light and the East Pier Light.

(b) *Definition.* As used in this section, *Captain of the Port* means the Captain of the Port Buffalo. The Captain of the Port may authorize or designate any Coast Guard commissioned officer, warrant, or petty officer to act on his behalf as his representative.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part:

(1) No person or vessel may enter or remain in this zone without the permission of the District Commander or Captain of the Port.

(2) All persons within this zone must obey any direction or order of the District Commander or the Captain of the Port, or the Captain of the Port's designated representative, which will be the on-scene patrol commander.

(3) Vessels constrained by their draft such that they are required to enter the security and safety zone should only operate at the minimum speed necessary to maintain a safe course and must proceed as directed by the on-scene patrol commander or the master of the M/V Spirit of Ontario.

(4) When the M/V Spirit of Ontario approaches within 25 yards of any vessel, on the Genesee River, that is moored or anchored, the stationary vessel must stay moored or anchored while it remains within the security and safety zone unless it is either ordered by, or given permission by the Captain of the Port Buffalo or the on-scene patrol commander to do otherwise.

Dated: April 20, 2004.

P.M. Gugg,

Captain, U.S. Coast Guard, Captain of the Port, Buffalo.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01-04-035]

RIN 1625-AA00

Safety Zone; Metro North Railroad Bridge Over the Norwalk River, Norwalk, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters surrounding the Metro North Railroad Bridge over the Norwalk River, Norwalk, Connecticut. This zone is necessary to protect vessels that wish to transit past the bridge due to an allision that occurred on April 11, 2004, destroying the fendering system under the bridge's western span, thereby exposing the bridge piers to the possibility of direct allision with an unprotected bridge structure. In addition, the damaged fendering system extends into the navigable channel, causing a hazard to navigation. Entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, Connecticut.

DATES: This rule is effective from 12 a.m. April 17, 2004 until 11:59 p.m. on June 15, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01-04-035 and will be available for inspection or copying at Group/MSO Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant A. Logman, Waterways Management Officer, Coast Guard Group/Marine Safety Office Long Island Sound at (203) 468-4429.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Any delay encountered in this regulation's effective date would be impracticable and contrary to public interest since immediate action is needed to restrict and control maritime traffic while transiting in the waters of