

§ 702.9037–2T [Removed]

■ **Par. 4.** Section 702.9037–2T is removed.

■ **Par. 5.** Revise § 702.9037–2 to read as follows:

§ 702.9037–2 Payments from the Presidential Primary Matching Payment Account.

(a) *In general.* Pursuant to section 9036, the Federal Election Commission (Commission) will certify to the Secretary the full amount of payment to which a candidate is entitled under section 9034. The Secretary will pay promptly, but not before the start of the matching payment period under section 9032(6), the amounts certified by the Commission from the Presidential Primary Matching Payment Account (Primary Account) to the candidate.

(b) *Additional guidance.* The Internal Revenue Service may publish guidance in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b) of this chapter) prescribing additional rules and procedures for the Primary Account.

(c) *Effective/applicability date.* These regulations apply to the Primary Account on or after February 2, 1996.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: October 28, 2008.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket No. USCG–2008–1013]

RIN 1625–AA87

Security Zones; Escorted Vessels, Mobile, AL, Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is establishing a 500-yard moving security zone around any vessel being escorted by one or more Coast Guard or other Federal, State, or local law enforcement assets on the navigable waters of the Captain of the Port Zone, Mobile, Alabama. This action is necessary to ensure the safe transit and mooring of escorted vessels as well as the safety

and security of personnel and port facilities. No vessel or person is allowed inside the security zone unless authorized by the Captain of the Port or a designated representative. The Coast Guard seeks comments on this interim rule.

DATES: This rule is effective November 13, 2008. Comments and related material must reach the Docket Management Facility on or before December 15, 2008.

ADDRESSES: You may submit comments identified by docket number USCG–2008–1013 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call LT Jonathan Mangum 251–441–5940. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:**Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–1013), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand

delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert “USCG–2008–1013” in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and we may change this rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG–2008–1013 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or Coast Guard Sector Mobile (Waterways Management) between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES**

explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

The Coast Guard is issuing this interim 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) for this regulation. Publishing a NPRM and delaying the effective date would be contrary to public interest since the security zones around escorted vessels are necessary to ensure the safe transit and mooring of the escorted vessels as well as the public. Certain vessel movements are more vulnerable to terrorist acts and it would be contrary to the public interest to publish an NPRM that would delay the effective date of this rule. Specifically, many of the escorted vessels in the Mobile COTP zone carry hazardous, sensitive, or volatile cargoes or are otherwise critical for national security. Any incident involving these escorted vessels could affect the health and safety of the public and shut down critical channels and ports that support vital maritime trade. It is imperative that these vessels be escorted by law enforcement assets to ensure that other vessels remain clear to mitigate navigation hazards and obstructions. Keeping vessels clear of the escorted vessels also reduces congestion and helps law enforcement readily identify and classify impending threats.

These hazardous, sensitive, or volatile cargoes are increasing in frequency within the navigable waters of the Captain of the Port Zone, Mobile, Alabama as maritime trade and commerce along the Gulf Coast grows. Vessels carrying these cargoes continue to arrive with only 24–36 hours advance notice. The Coast Guard and other law enforcement assets are constantly called upon to quickly mobilize to ensure that these vessels are adequately protected.

Additionally, the Coast Guard coordinates escorts for vessels in the Captain of the Port Zone Mobile, Alabama for port safety and security. Recently, recreational boaters and other small craft have endangered themselves

and others by not following the verbal guidance of on-scene law enforcement officials and approaching too close to the escorted vessels.

Therefore, to ensure national security, safe boating, and to facilitate efficient maritime trade, it is imperative to create an effective security zone for all escorted vessels as soon as possible.

For the same reasons above, 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

The terrorist attacks of September 11, 2001, heightened the need for development of various security measures throughout the seaports of the United States, particularly around vessels and facilities whose presence or movement creates a heightened vulnerability to terrorist acts; or those for which the consequences of terrorist acts represent a threat to national security. The President of the United States has found that the security of the United States is and continues to be endangered following the attacks of September 11 (E.O. 13273, 67 FR 56215, Sep. 3, 2002 and 73 FR 54489, Sep. 18, 2008). Additionally, national security and intelligence officials continue to warn that future terrorist attacks are likely. The ports within the Captain of the Port (COTP) Mobile frequently receive vessels that require additional security, including, but not limited to, vessels carrying sensitive Department of Defense cargoes, vessels carrying dangerous cargoes, and foreign naval vessels. The COTP has determined that these vessels have a significant vulnerability to subversive activity by other vessels or persons, or, in some cases, themselves pose a risk to a port and the public within the COTP Zone, as described in 33 CFR 3.40–10. This rule enables the COTP Mobile to provide effective port security, while minimizing the public's confusion and easing the administrative burden of implementing separate temporary security zone rules for each escorted vessel.

Discussion of Proposed Rule

This rule establishes a security zone that prohibits persons and vessels from coming within 500 yards of all escorted vessels within the navigable waters of the COTP Mobile zone unless authorized by the Coast Guard COTP or a COTP designated representative. Persons or vessels that receive permission to enter the security zone must proceed at a minimum safe speed possible for safe navigation and must

comply with all orders issued by the COTP or a designated representative.

An escorted vessel is a vessel, other than a large U.S. naval vessel as defined in 33 CFR 165.2015, that is accompanied by one or more Coast Guard assets or other Federal, State or local law enforcement agency assets, clearly identifiable by flashing lights, vessel markings, or with agency insignia as listed below: Coast Guard surface or air asset displaying the Coast Guard insignia; Federal, State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency. An escorted vessel also includes a moored or anchored vessel that has been accompanied by one or more of these law enforcement assets to its present location that is identifiable by day boards or other visual indications such as lights or buoys when law enforcement assets are no longer on-scene.

In addition to the presence of these law enforcement assets for escorted vessels, and day boards or other visual indications such as lights or buoys for moored or anchored escorted vessels if no law enforcement assets are on-scene, a broadcast notice to mariners will advise the public that a 500-yard security zone is in effect around the escorted vessel. All local broadcasts to mariners concerning escorted vessels will normally be issued at approximately 30-minute intervals while the security zone restrictions remain in effect.

Regulatory Analyses

We developed this interim 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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The limited geographic area impacted by the security zone will not restrict the movement or routine operation of commercial or recreational vessels through the ports within the Captain of the Port Zone Mobile. Vessels requiring transit through the security zone also

may be permitted to do so with approval by COTP Mobile or a designated representative.

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 may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit in the vicinity of escorted vessels on the navigable waters of the Captain of the Port Zone, Mobile, Alabama. This rule would not have a significant impact on a substantial number of small entities because the zones are limited in size, encompassing the escorted vessel and a 500-yard radius around the vessel only. In most cases, the security zones will leave ample space for vessels to navigate around them. If not, and security conditions permit, the COTP will attempt to provide flexibility for individual vessels to transit through the zones as needed. Therefore, the zones will not significantly impact commercial and passenger vessel traffic patterns. Additionally, mariners will be given advanced notice of all security zones created under this rule via broadcast notice to mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining 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 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 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 will 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. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

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 5100.1 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 under the Instruction 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. An environmental analysis checklist and a categorical exclusion supporting this 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. 701; 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 § 165.836 to read as follows:

§ 165.836 Security Zone; Escorted Vessels, Mobile, Alabama, Captain of the Port.

(a) *Definitions*. The following definitions apply to this section:

COTP means Captain of the Port Mobile, AL.

Designated representatives means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the COTP, in the enforcement of the security zone.

Escorted vessel means a vessel, other than a large U.S. naval vessel as defined in 33 CFR 165.2015, that is accompanied by one or more Coast Guard assets or other Federal, State or local law enforcement agency assets clearly identifiable by flashing lights, vessel markings, or with agency insignia as follows: Coast Guard surface or air asset displaying the Coast Guard insignia. State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency. *Escorted vessel* also means a moored or anchored vessel that was escorted by

Coast Guard assets or other Federal, State or local law enforcement agency assets to its present location and is identifiable by the use of day boards or other visual indications such as lights or buoys when law enforcement assets are no longer on-scene.

Minimum safe speed for navigation means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake or surge. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to minimum safe speed for navigation. In no instance should minimum safe speed be interpreted as a speed less than that required for a particular vessel to maintain steerageway. A vessel is not proceeding at minimum safe speed if it is:

- (1) On a plane;
- (2) In the process of coming up onto or coming off a plane; or
- (3) Creating an excessive wake or surge.

(b) *Regulated Area*. All navigable waters, as defined in 33 CFR 2.36, within the Captain of the Port Zone, Mobile, Alabama, as described in 33 CFR 3.40–10.

(c) *Security Zone*. A 500-yard security zone is established around each escorted vessel within the regulated area described in paragraph (b) of this section. This is a moving security zone when the escorted vessel is in transit and becomes a fixed zone when the escorted vessel is anchored or moored. A security zone will not extend beyond the boundary of the regulated area in this section.

(d) *Regulations*. (1) The general regulations for security zones contained in § 165.33 applies to this section.

(2) A vessel may request the permission of the COTP Mobile or a designated representative to enter the security zone described in paragraph (c) of this section. If permitted to enter the security zone, a vessel must proceed at the minimum safe speed and must comply with the orders of the COTP or a designated representative.

(e) *Notice of Security Zone*. The COTP will inform the public of the existence or status of the security zones around escorted vessels in the regulated area by broadcast notices to mariners, normally issued at approximately 30-minute intervals while the security zones remains in effect. Escorted vessels will be identified by the presence of Coast Guard assets or other Federal, State or local law enforcement agency assets, or the use of day boards or other visual indications such as lights or buoys

when the vessels are moored or anchored and law enforcement assets are no longer on-scene, as specified in the definition of *escorted vessel* in paragraph (a) of this section.

(f) *Contact Information*. The COTP Mobile may be reached via phone at (251) 441–6211. Any on scene Coast Guard or designated representative assets may be reached via VHF–FM channel 16.

Dated: October 7, 2008.

E.M. Stanton,

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

[FR Doc. E8–26900 Filed 11–12–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–RO9–OAR–2006–0184; FRL–8739–7]

Stay of Effectiveness of Control Measure Regulating Dust Emissions at the Four Corners Power Plant; Navajo Nation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to stay the effectiveness of a control measure regulating dust emissions from certain operations that we promulgated in our Federal Implementation Plan for the Four Corners Power Plant located on the Navajo Nation. The control measure would take effect on November 5, 2008. On October 1, 2007, Arizona Public Service Company filed a Petition for Review claiming, *inter alia*, that EPA had not provided an adequate explanation for promulgating the control measure. In the litigation, EPA has agreed that the control measure should be remanded and vacated. EPA needs to complete this action staying the effectiveness of the control measure until the Court rules on the Petition, including the Petitioner's and EPA's requests to remand and vacate the control measure.

DATES: The stay to 40 CFR 49.23(d)(3) is effective on November 13, 2008 until further notice. The EPA will publish a document in the **Federal Register** announcing that the stay is lifted.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–RO9–OAR–2006–0184. All documents in the docket are listed in the Federal Docket Management System index at www.regulations.gov. Although listed in the index, some information is