

and regulations regarding the sale by retail distributors of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products ("safe harbor" products). Compliance with the current law and regulations, as interpreted by this rulemaking, will not result in any change in economic activity for retail distributors of pseudoephedrine and phenylpropanolamine regulated products.

Executive Order 12866

The Deputy Assistant Administrator certifies that this rulemaking has been drafted in accordance with the principles of Executive Order 12866, section 1(b). The rule provides DEA's interpretation of its law and regulations regarding the sale by retail distributors of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products ("safe harbor" products). DEA has determined that this is not a significant regulatory action. Therefore, this action has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of State law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any State to enforce its own laws. Accordingly, this rule does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Act

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment,

productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Dated: January 5, 2004.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 04-722 Filed 1-13-04; 8:45 am]

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DEPARTMENT OF DEFENSE

National Geospatial-Intelligence Agency

32 CFR Part 320

[NIMA Instruction 5500.7R1]

Privacy Act; Implementation

AGENCY: National Geospatial-Intelligence Agency, DoD.

ACTION: Final rule.

SUMMARY: The document is published to make administrative changes to the National Geospatial-Intelligence Agency (NGA), formerly known as the National Imagery and Mapping Agency, Privacy Program rule.

EFFECTIVE DATE: This rule is effective January 14, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. M. Flattery, (301) 227-2268.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 320

Privacy program.

■ Accordingly, 32 CFR part 320 is amended as follows:

PART 320—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY (NGA) PRIVACY

Program

■ 1. The authority citation for part 320 continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1986 (5 U.S.C. 552a).

■ 2. The part heading is revised as set forth above.

§ 320.1 [Amended]

■ 3. Section 320.1, paragraph (a)(1)(i) is amended by revising "National Imagery and Mapping Agency (NIMA)" to read "National Geospatial-Intelligence Agency (NGA)"

■ 4. The following paragraphs are amended by revising "NIMA" to read "NGA": § 320.1 paragraph (a)(2); § 320.2 paragraphs (a), (c), (f), (h), and (i); § 320.3

paragraphs (a), (a)(1), (a)(2), (a)(4), (b)(6), and (c)(4); § 320.4 paragraphs (a), (b), (c), (c)(2), (d), and (e); § 320.5 paragraphs (a), (b), (b)(1), (b)(2), (b)(3), (c), (c)(1), (c)(2), and (d)(1); § 320.6 (b); § 320.7 paragraphs (a) and (b); § 320.8, paragraphs (b), (c), and (c)(1); § 320.9 paragraphs (a), (c)(5), and (c)(7); §§ 320.10 and 320.11; and § 320.12 paragraphs (a), (b)(3)(i), (b)(3)(v) and (b)(3)(vi).

Dated: January 7, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04-758 Filed 1-13-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13-03-018]

RIN 1625-AA00

Security and Safety Zone; Protection of Large Passenger Vessels, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing regulations for the security and safety of large passenger vessels in the navigable waters of Puget Sound and adjacent waters, Washington. This security and safety zone, when enforced by the Captain of the Port Puget Sound, provides for the regulation of vessel traffic in the vicinity of large passenger vessels in the navigable waters of the United States, Puget Sound and adjacent waters, WA.

DATES: This rule is effective February 8, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD13-03-018 and are available for inspection or copying at Commanding Officer, Marine Safety Office Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTjg T. Thayer, c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, WA 98134, (206) 217-6232.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 15, 2003, we published a notice of proposed rulemaking (NPRM)

entitled Security and Safety Zone; Protection of Large Passenger Vessels, Puget Sound, WA in the **Federal Register** (68 FR 41764). We received no comments on the proposed rule. A public hearing was not requested and none was held.

The Coast Guard finds that good cause exists to make this rule effective less than 30 days after publication. This final rule continues regulations that were established in a temporary final rule (68 FR 49359), which ends on February 7, 2004. The requirements are necessary to ensure the safety and security of large passenger vessels in Puget Sound, and need to be continuous to be effective.

Background and Purpose

On March 31, 2003, the Captain of the Port Puget Sound published a Temporary Final Rule (TFR) (68 FR 15375, CGD 13-03-003, 33 CFR § 165.T13-002) establishing security and safety zones for the protection of large passenger vessels, which expired on August 8, 2003. The TFR also requested public comment. On June 20, 2003, the Captain of the Port Puget Sound issued a Notice of Proposed Rule Making (NPRM) entitled Security and Safety Zone; Protection of Large Passenger Vessels, Puget Sound, WA. This NPRM was published in the **Federal Register** on July 15, 2003 (68 FR 41764). In drafting the proposed rule, the Coast Guard considered comments it received in response to the TFR. In general, the comments concerned the scope and impact of the TFR. *See*, Discussion of Proposed Rule, 68 FR at 41765. In response to these comments, the Coast Guard modified the definition of large passenger vessel by excluding small passenger vessels (vessels inspected and certificated under 46 CFR Chapter I, Subchapter T) thereby decreasing the number of vessels with security and safety zones around them. In addition, the Coast Guard reduced the size of the exclusionary zone from 100 yards to 25 yards for a large passenger vessel that is moored.

The original TFR, expired before the notice and comment period in the NPRM closed. Rather than extend the original TFR, the Captain of the Port Puget Sound published a second TFR on August 18, 2003, which was substantially the same as the proposed rule (68 FR 49359, CGD 13-03-026, 33 CFR 165.T13-017). There were no comments received regarding the second TFR.

This final rule will assist large passenger vessels by establishing a permanent security and safety zone that when enforced by the Captain of the

Port would exclude persons and vessels from the immediate vicinity of certain large passenger vessels. Hostile entities continue to operate with the intent to harm U.S. National Security by attacking or sabotaging national security assets. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks. 67 FR 58317 ((Sept. 13, 2002) (continuing national emergency with respect to terrorist attacks)); 67 FR 59447 ((Sept. 20, 2002) continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)); 68 FR 55189 ((Sept. 22, 2003) (continuing national 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 attacks (E.O. 13,273, 67 FR 56215 (Sept. 3, 2002) (security endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations). Moreover, the ongoing hostilities in Afghanistan and Iraq make it prudent for U.S. ports and waterways to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

Discussion of Comments and Changes

No comments were received by the Coast Guard as a result of the request for comments in our NPRM. However, as discussed above, the Coast Guard considered comments received regarding the scope and impact of the original TFR in drafting the proposed rule. *See*, Discussion of Proposed Rule, 68 FR at 41765.

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).

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 the regulated area, the effect of this rule will not be significant because: (i) Individual large passenger vessel security and safety zones are limited in size; (ii) the official on-scene patrol or large passenger vessel master may authorize access to the large passenger vessel security and safety zone; (iii) the large passenger vessel security and safety zone for any given transiting large passenger vessel will effect a given geographical location for a limited time; (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly; (v) the reduction in the number and types of vessels covered by this rule as a result of comments received in response to the original Large Passenger Vessel Security Zone TFR; and (vi) the size of the exclusionary zone was reduced from 100 yards to 25 yards for large passenger vessels that are moored.

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 or operators of vessels intending to operate near or anchor in the vicinity of large passenger vessels in the navigable waters of the United States.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual large passenger vessel security and safety zones are limited in size; (ii) the official on-scene patrol or large passenger vessel master may authorize access to the large passenger vessel security and safety zone; (iii) the large passenger vessel security and safety zone for any given transiting large passenger vessel will effect a given geographical location for a limited time; (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly; (v) the reduction in the number and types of vessels covered by this rule as a result of comments

received in response to the original Large Passenger Vessel Security Zone TFR; and (vi) the size of the exclusionary zone was reduced from 100 yards to 25 yards for large passenger vessels that are moored.

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 would 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 might disproportionately affect children.

Indian Tribal Governments

The Coast Guard recognizes the rights of Native American Tribes under the Stevens Treaties. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies to mitigate tribal concerns. Given the flexibility of this rule to accommodate the special needs of mariners in the vicinity of large passenger vessels and the Coast Guard's commitment to working with the Tribes, we have determined that passenger vessel security and fishing rights protection need not be incompatible and therefore have determined that 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

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) of Commandant Instruction M16475.ID, 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 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. Add § 165.1317 to read as follows:

§ 165.1317 Security and Safety Zone; Large Passenger Vessel Protection, Puget Sound and adjacent waters, Washington.

(a) *Notice of enforcement or suspension of enforcement.* The large passenger vessel security and safety zone established by this section will be enforced only upon notice by the Captain of the Port Puget Sound. Captain of the Port Puget Sound will cause notice of the enforcement of the large passenger vessel security and safety zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Puget Sound will issue a Broadcast Notice to Mariners and Local Notice to Mariners notifying the public when enforcement of the large passenger vessel security and safety zone is suspended.

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

Federal Law Enforcement Officer means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

Large Passenger Vessel means any cruise ship over 100 feet in length carrying passengers for hire, and any auto ferries and passenger ferries over 100 feet in length carrying passengers for hire such as the Washington State Ferries, M/V COHO and Alaskan Marine Highway Ferries. Large Passenger Vessel does not include vessels inspected and certificated under 46 CFR, Chapter I, Subchapter T such as excursion vessels, sight seeing vessels, dinner cruise vessels, and whale watching vessels.

Large Passenger Vessel Security and Safety Zone is a regulated area of water established by this section, surrounding large passenger vessels for a 500-yard radius to provide for the security and safety of these vessels.

Navigable waters of the United States means those waters defined as such in 33 CFR part 2.

Navigation Rules means the Navigation Rules, International—Inland.

Official Patrol means those persons designated by the Captain of the Port to monitor a large passenger vessel security and safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone and take other actions authorized by the Captain of the Port. Persons authorized in paragraph (l) to enforce this section are designated as the Official Patrol.

Public vessel means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

Washington Law Enforcement Officer means any General Authority Washington Peace Officer, Limited Authority Washington Peace Officer, or Specially Commissioned Washington Peace Officer as defined in Revised Code of Washington section 10.93.020.

(c) *Security and safety zone.* There is established a large passenger vessel security and safety zone extending for a 500-yard radius around all large passenger vessels located in the navigable waters of the United States in Puget Sound, WA, east of 123°30' West Longitude. [Datum: NAD 1983].

(d) *Compliance.* The large passenger vessel security and safety zone established by this section remains in effect around large passenger vessels at all times, whether the large passenger vessel is underway, anchored, or moored. Upon notice of enforcement by the Captain of the Port Puget Sound, the

Coast Guard will enforce the large passenger vessel security and safety zone in accordance with rules set out in this section. Upon notice of suspension of enforcement by the Captain of the Port Puget Sound, all persons and vessels are authorized to enter, transit, and exit the large passenger vessel security and safety zone, consistent with the Navigation Rules.

(e) The Navigation Rules shall apply at all times within a large passenger vessel security and safety zone.

(f) When within a large passenger vessel security and safety zone all vessels must operate at the minimum speed necessary to maintain a safe course and must proceed as directed by the on-scene official patrol or large passenger vessel master. No vessel or person is allowed within 100 yards of a large passenger vessel that is underway or at anchor, unless authorized by the on-scene official patrol or large passenger vessel master. No vessel or person is allowed within 25 yards of a large passenger vessel that is moored.

(g) To request authorization to operate within 100 yards of a large passenger vessel that is underway or at anchor, contact the on-scene official patrol or large passenger vessel master on VHF-FM channel 16 or 13.

(h) When conditions permit, the on-scene official patrol or large passenger vessel master should:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a large passenger vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of an anchored large passenger vessel or within 25 yards of a moored large passenger vessel with minimal delay consistent with security.

(i) When a large passenger vessel approaches within 100 yards of any vessel that is moored or anchored, the stationary vessel must stay moored or anchored while it remains within the large passenger vessel's security and safety zone unless it is either ordered by, or given permission by the Captain of the Port Puget Sound, his designated representative or the on-scene official patrol to do otherwise.

(j) *Exemption.* Public vessels as defined in paragraph (b) of this section are exempt from complying with paragraphs (c), (d), (f), (g), (h), and (i), of this section.

(k) *Exception.* 33 CFR part 161 contains Vessel Traffic Service regulations. When measures or directions issued by Vessel Traffic

Service Puget Sound pursuant to 33 CFR part 161 also apply, the regulations govern rather than the regulations in this section.

(l) *Enforcement.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. In the navigable waters of the United States to which this section applies, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to provide effective enforcement of this section in the vicinity of a large passenger vessel, any Federal Law Enforcement Officer or Washington Law Enforcement Officer may enforce the rules contained in this section pursuant to 33 CFR 6.04–11. In addition, the Captain of the Port may be assisted by other federal, state or local agencies in enforcing this section.

(m) *Waiver.* The Captain of the Port Puget Sound may waive any of the requirements of this section for any vessel or class of vessels upon finding that a vessel or class of vessels, operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port security, safety or environmental safety.

Dated: December 10, 2003.

Danny Ellis,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 04–747 Filed 1–13–04; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0402; FRL–7339–8]

Extension of Tolerances for Emergency Exemptions Multiple Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for the pesticides listed in Unit II. of the **SUPPLEMENTARY INFORMATION.** These actions are in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of these pesticides. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that