

(iv) *Method of election.* A foreign corporation that elects the benefits of this paragraph (e)(3) for a taxable year shall state on its return for the taxable year (or on a statement attached to the return) that it has elected to reduce its liabilities for the taxable year under this paragraph (e)(3) and that it has reduced the amount of its U.S.-connected liabilities as provided in § 1.884-1(e)(3)(iii), and shall indicate the amount of such reductions on the return or attachment. An election under this paragraph (e)(3) must be made before the due date (including extensions) for the foreign corporation's income tax return for the taxable year, except that for the first tax year for which the original tax return due date (including extensions) is after August 17, 2006 and not later than December 31, 2006, an election under this paragraph (e)(3) may be made on an amended return within 180 days after the original due date (including extensions).

(v) through (e)(5) *Example 1* [Reserved]. For further guidance, see § 1.884-1(e)(3)(v) through (e)(5) *Example 1*.

*Example 2. Election made to reduce liabilities.* (i) As of the close of 2007, foreign corporation A, a real estate company, owns U.S. assets with an E&P basis of \$1000. A has \$800 of liabilities under paragraph (e)(1) of this section. A has accumulated ECEP of \$500 and in 2008, A has \$60 of ECEP that it intends to retain for future expansion of its U.S. trade or business. A elects under paragraph (e)(3) of this section to reduce its liabilities by \$60 from \$800 to \$740. As a result of the election, assuming A's U.S. assets and U.S. liabilities would otherwise have remained constant, A's U.S. net equity as of the close of 1994 will increase by the amount of the decrease in liabilities (\$60) from \$200 to \$260 and its ECEP will be reduced to zero. Under § 1.884-1(e)(3)(iii), A's interest expense for the taxable year is reduced by the amount of interest attributable to \$60 of liabilities and A's excess interest is reduced by the same amount. A's taxable income and ECEP are increased by the amount of the reduction in interest expense attributable to the liabilities, and A may make an election under paragraph (e)(3) of this section to further reduce its liabilities, thus increasing its U.S. net equity and reducing the amount of additional ECEP created for the election.

(ii) In 2009, assuming A again has \$60 of ECEP, A may again make the election under paragraph (e)(3) to reduce its liabilities. However, assuming A's U.S. assets and liabilities under paragraph (e)(1) of this section remain constant, A will need to make an election to reduce its liabilities by \$120 to reduce to zero its ECEP in 2009 and to continue to retain for expansion (without the payment of the branch profits tax) the \$60 of ECEP earned in 2008. Without an election to reduce liabilities, A's dividend equivalent amount for 2009 would be \$120 (\$60 of ECEP plus the \$60 reduction in U.S. net equity

from \$260 to \$200). If A makes the election to reduce liabilities by \$120 (from \$800 to \$680), A's U.S. net equity will increase by \$60 (from \$260 at the end of the previous year to \$320), the amount necessary to reduce its ECEP to \$0. However, the reduction of liabilities will itself create additional ECEP subject to section 884 because of the reduction in interest expense attributable to the \$120 of liabilities. A can make the election to reduce liabilities by \$120 without exceeding the limitation on the election provided in paragraph (e)(3)(ii) of this section because the \$120 reduction does not exceed the amount needed to treat the 2009 and 2008 ECEP as reinvested in the net equity of the trade or business within the United States.

(iii) If A terminates its U.S. trade or business in 2009 in accordance with the rules in § 1.884-2T(a), A would not be subject to the branch profits tax on the \$60 of ECEP earned in that year. Under paragraph § 1.884-1(e)(3)(v) of this section, however, it would be subject to the branch profits tax on the portion of the \$60 of ECEP that it earned in 2008 that became accumulated ECEP because of an election to reduce liabilities.

(f) through (j)(2)(ii) [Reserved]. For further guidance, see § 1.884-1(f) through (j)(2)(ii).

**PART 602—OMB CONTROL NUMBER UNDER THE PAPERWORK REDUCTION ACT**

■ **Par. 7.** The authority citation for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

■ **Par. 8.** In § 602.101, paragraph (b) is amended by adding an entry for “§ 1.882-5T” to the table to read as follows:

§ 601.101 OMB Control numbers.				
*	*	*	*	*
(b) * * *				
CFR part or section where identified and described				Current OMB control No.
*	*	*	*	*
1.882-5T	.....			1545-2030
*	*	*	*	*

Approved: August 2, 2006.

**Mark E. Mathews,**

*Deputy Commissioner for Services and Enforcement.*

**Eric Solomon,**

*Acting Deputy Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. E6-13402 Filed 8-15-06; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**[CGD13-06-027]**

**RIN 1625-AA00**

**Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project, Construction Barge “MARMACK 12”, Tacoma Narrows, Gig Harbor, WA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone around the Barge “MARMACK 12”, Official Number 1024657, while it is being used for the New Tacoma Narrows Bridge Construction Project. The zone will extend 500 feet in all directions from the barge, and will be in effect at all times during the duration of this rule. This zone is only in effect while the barge is on the navigable waters of the United States, in the Tacoma Narrows. The Coast Guard is taking this action to safeguard the public from possible collision with the barge and the deck sections it is carrying, and from hazards associated with navigating in the vicinity of the barge during construction operations. Entry into this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

**DATES:** This rule is effective from 12 a.m. (PST) June 19, 2006 to 12 a.m. (PST) November 16, 2006, unless sooner cancelled or extended by the Captain of the Port.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD13-06-027 and are available for inspection or copying at the Waterways Management Division, Coast Guard Sector Seattle, 1519 Alaskan Way South, Seattle, WA 98134, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Erica Govednik, Waterways Management Division, Coast Guard Sector Seattle, at (206) 217-6138.

**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), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM would be contrary to the public interest since immediate action is

necessary to ensure the safety of vessels and persons that transit in the vicinity of the Tacoma Narrows Bridge. If normal notice and comment procedures were followed, this rule would not become effective until after construction activities were already taking place.

For the same reasons, the Coast Guard finds that, 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**.

#### **Background and Purpose**

The Coast Guard is establishing a temporary safety zone on the waters of Tacoma Narrows, Washington, for the New Tacoma Narrows Bridge construction project. The Coast Guard has determined it is necessary to restrict access to the certain waters under the West Span in order to safeguard people and property from hazards associated with the presence of construction vessels and equipment in that area. These safety hazards include, but are not limited to, hazards to navigation, collisions with mooring cables, and collisions with work vessels and barges.

#### **Discussion of Rule**

The Coast Guard is adopting a temporary safety zone regulation on the waters of Tacoma Narrows, Washington, for the New Tacoma Narrows Bridge construction project. The Coast Guard has determined it is necessary to restrict access to the waters within 500 feet of the construction barge "MARMACK", in order to safeguard people and property from hazards associated with navigating in the vicinity of moving construction equipment. These safety hazards include, but are not limited to, hazards to navigation, collisions with the barge or its cargo, and disturbance of the load on the barge, which could fall or shift, injuring anyone in the vicinity. The Coast Guard, through this action, intends to promote the safety of personnel, vessels, and facilities in the area. Entry into this zone will be prohibited unless authorized by the Captain of the Port or his representative. This safety zone will be enforced by Coast Guard personnel. The Captain of the Port may be assisted by other federal, state, or local agencies.

#### **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.

We expect the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation is unnecessary. This expectation is based on the fact that the regulated area established by this regulation would encompass a small area that should not impact commercial or recreational traffic. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

#### **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 will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit this portion of the Tacoma Narrows during the time this regulation is in effect. The zone will not have a significant economic impact on a substantial number of small entities due to its small area. Because the impacts of this rule are expected to be so minimal, 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.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **(FOR FURTHER INFORMATION CONTACT)** section. 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 temporary rule would call 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 temporary rule under that Order and have determined that this rule does not have implications for federalism under that Order.

#### **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 State, local, or tribal government, in the aggregate, or 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 temporary rule would 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 temporary 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 concern 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 M16475.1D and Department of Homeland Security Management Directive 5100.1, 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 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. A final "Environmental Analysis Check List" and a final "Categorical Exclusion

Determination" will be 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. 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 12 a.m. (PST) June 19, 2006 to 12 a.m. (PST) November 16, 2006, add temporary § 165.T13–026 to read as follows:

#### § 165.T13–026 Safety Zone: New Tacoma Narrows Bridge Construction Project, Construction Barge "MARMACK 12" Tacoma Narrows, Gig Harbor, WA.

(a) *Location.* The following is a safety zone: All waters of the Tacoma Narrows, Washington State, from surface to bottom, within 500 feet of the construction barge "MARMACK 12", official number 1024657.

(b) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, no person or vessel may enter or remain in the zone except for those persons involved in the construction of the new Tacoma Narrows Bridge, supporting personnel, or other vessels authorized by the Captain of the Port or his designated representatives. Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or his designated representative.

(c) *Effective period.* This section is effective from 12 a.m. (PST) June 19, 2006 to 12 a.m. (PST) November 16, 2006, unless sooner cancelled or extended by the Captain of the Port.

Dated: June 15, 2006.

**Stephen P. Metruck,**

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

[FR Doc. E6–13563 Filed 8–16–06; 8:45 am]

**BILLING CODE 4910–15-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD13–06–026]

RIN 1625–AA00

#### Safety Zone; New Tacoma Narrows Bridge Construction Project, Bridge Deck Lifting Beams, Tacoma Narrows, Gig Harbor, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone around the lifting beams of the cranes being used to lift deck sections into place on the New Tacoma Narrows Bridge. The zone will encompass all waters within 500 feet of the area directly below the lifting beams for the duration of the lowering, hookup, raising, and securing evolutions, and will only apply to the beams on the cranes that are in use. The beams being used for the day's evolutions will be clearly marked on each end with a white flashing light. The Coast Guard is taking this action to safeguard the public from the hazards associated with navigating in the vicinity of moving construction equipment and heavy loads. These hazards may include risk of collision with the lifting beams and risks associated with falling loads, should there be an equipment failure. Entry into this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

**DATES:** This rule is effective from 12 a.m. (PST) June 19, 2006 to 12 a.m. (PST) November 16, 2006, unless sooner cancelled or extended by the Captain of the Port.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD13–06–014 and are available for inspection or copying at the Waterways Management Division, Coast Guard Sector Seattle, 1519 Alaskan Way South, Seattle, WA, 98134, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Erica Govednik, Waterways Management Division, Coast Guard Sector Seattle, at (206) 217–6138.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this