

impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

**2004-09-10 Boeing:** Amendment 39-13599. Docket 2002-NM-341-AD.

**Applicability:** Model 747 series airplanes, certificated in any category, with lower cargo floors (floors in the lower cargo areas) that are not fully enclosed. A fully enclosed cargo floor is a floor with panels installed between all roller trays in the cargo compartment. A cargo floor that is not fully enclosed is a floor without panels installed between all roller trays in the cargo compartment.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent overheating of the heater tape on potable water fill and drain lines, which may ignite accumulated debris or contaminants on or near the potable water fill and drain lines, resulting in a fire in the airplane, accomplish the following:

#### Debris Removal

(a) At the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD: Perform a one-time general visual inspection for foreign object debris (FOD) and contamination on or near potable water and drain lines located below the cargo floor in the forward and aft cargo compartments, in areas not covered by floor panels or sidewall panels. Do the inspection in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747-30A2079, Revision 1, dated October 16, 2003. Remove any FOD or contamination observed on or near the potable water or drain lines prior to further flight in accordance with the service bulletin.

(1) Inspect within 18 months since the date of issuance of the original Airworthiness Certificate or within 18 months since the date

of issuance of the Export Certificate of Airworthiness, whichever occurs first; or  
(2) Inspect within 90 days after the effective date of this AD.

**Note 1:** For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

#### Inspection for Discrepant Heater Tape

(b) At the applicable time specified in paragraph (c) of this AD: Perform a general visual inspection for discrepancies of potable water and drain lines located below the cargo floor in the forward and aft cargo compartments, in areas not covered by floor panels or sidewall panels, as specified in paragraphs (b)(1) and (b)(2) of this AD. Do the inspection in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747-30A2079, Revision 1, dated October 16, 2003.

(1) Inspect potable water and drain lines for indications of overheating of the heater tape, including localized darkening of foam insulation or protective tape. If overheating is observed: Prior to further flight, either replace the defective heater tape, removing floor panels as necessary, in accordance with the service bulletin; deactivate the heater tape in accordance with the provisions and limitations specified in the operator's Minimum Equipment List (MEL); or deactivate the heater tape in accordance with Figure 1 of the service bulletin. If the heater tape is deactivated it must be replaced within 90 days after the date of the inspection required by this paragraph.

(2) Inspect potable water and drain lines for exposed foam insulation and missing or damaged protective tape. If exposed foam insulation is observed: Within 90 days after the date of the inspection required by this paragraph, cover the foam insulation with a continuous wrap of protective tape, in accordance with the service bulletin. If protective tape is missing or damaged: Within 90 days after the date of the inspection required by this paragraph, replace the protective tape in accessible areas in accordance with the service bulletin. It is not necessary to remove floor panels to replace the protective tape.

(c) Do the inspections required by paragraph (b) at the later of the times specified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Within 18 months since the date of issuance of the original Airworthiness Certificate or the date of issuance of the Export Certificate of Airworthiness, whichever occurs first.

(2) Within 90 days after the effective date of this AD.

#### Credit for Actions Accomplished Previously

(d) Actions accomplished before the effective date of this AD, per Boeing Alert Service Bulletin 747-30A2079, dated December 12, 2002, are acceptable for compliance with the corresponding actions required by paragraphs (a) and (b) of this AD.

#### Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

#### Incorporation by Reference

(f) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin 747-30A2079, Revision 1, dated October 16, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, PO Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### Effective Date

(g) This amendment becomes effective on June 4, 2004.

Issued in Renton, Washington, on April 20, 2004.

#### Ali Bahrami,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 04-9592 Filed 4-29-04; 8:45 am]

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## FEDERAL TRADE COMMISSION

### 16 CFR Part 305

#### Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission ("Commission") revises Table 1 in section 305.9 of the Commission's Appliance Labeling Rule ("Rule") to incorporate the latest figures for average unit energy costs as published by the Department of Energy

(“DOE”) in the **Federal Register** on January 27, 2004. Table 1 sets forth the representative average unit energy costs for five residential energy sources, which the Commission revises periodically on the basis of updated information provided by DOE.

**DATES:** The amendments published in this document are effective April 30, 2004. The mandatory dates for using these revised DOE cost figures in connection with the Appliance Labeling Rule are detailed in the **SUPPLEMENTARY INFORMATION** Section, below.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, Attorney, 202–326–2889, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580; E-mail: [hnewsome@ftc.gov](mailto:hnewsome@ftc.gov).

**SUPPLEMENTARY INFORMATION:** On November 19, 1979, the Commission issued a final rule in response to a directive in section 324 of the Energy Policy and Conservation Act (“EPCA”), 42 U.S.C. 6201. The Rule requires the disclosure of energy efficiency, consumption, or cost information on labels and in retail sales catalogs for eight categories of appliances, and mandates that the energy costs, consumption, or efficiency ratings be based on standardized test procedures developed by DOE. The cost information obtained by following the test procedures is derived by using the representative average unit energy costs provided by DOE. Table 1 in section 305.9(a) of the Rule sets forth the representative average unit energy costs to be used for all cost-related requirements of the Rule. As stated in section 305.9(b), the Table is to be revised periodically on the basis of updated information provided by DOE. Additional information about the Commission’s Appliance Labeling Rule can be found at [www.ftc.gov/appliances](http://www.ftc.gov/appliances).

### **I. Representative Average Unit Energy Costs**

On January 27, 2004, DOE published the most recent figures for representative average unit energy costs (69 FR 3907). These energy cost figures are for manufacturers to use, in accordance with the guidelines that appear below, to calculate the required secondary annual operating cost figures at the bottom of required EnergyGuides for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, and room air conditioners. The energy cost figures also are for manufacturers of central air conditioners and heat pumps to use, also in accordance with the below guidelines, to calculate annual operating

cost for required fact sheets and in approved industry directories listing these products.<sup>1</sup> The Commission is revising Table 1 to reflect these latest cost figures, as set forth below. The current and future obligations of manufacturers with respect to the use of DOE’s cost figures are as follows:

#### *A. Labeling of Refrigerators, Refrigerator-Freezers, Freezers, Clothes Washers, Dishwashers, Water Heaters, and Room Air Conditioners*<sup>2</sup>

Manufacturers must continue to use the DOE cost figures that were published and in effect the year the ranges of comparability last changed for the applicable covered product. The cost figures currently applicable to each product category are detailed below. Manufacturers must continue to use these figures until new ranges of comparability for an applicable product are published by the Commission in the future. For example, if the ranges of comparability for a given product last changed in the year 2001, manufacturers should continue to use the 2001 DOE energy cost figures until the Commission announces otherwise.

#### **1. Refrigerators, Refrigerator-Freezers, and Freezers**

Manufacturers of refrigerators, refrigerator-freezers, and freezers must continue to derive the operating cost disclosures on labels by using the 2001 Average Representative Unit Costs (8.29 cents per kiloWatt-hour for electricity) published by DOE on March 8, 2001 (66 FR 13917), and by the Commission on May 21, 2001 (66 FR 27856), that were in effect when the current 2001 ranges of comparability for these products were published.<sup>3</sup> Manufacturers must

<sup>1</sup> The DOE cost figures are not necessary for making data submissions to the Commission. The required energy use information that manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and water heaters must submit under section 305.8 of the Rule is no longer operating cost; it is now energy consumption (kilowatt-hour use per year for electricity, therms per year for natural gas, or gallons per year for propane and oil).

<sup>2</sup> Sections 305.11(a)(5)(i)(H)(2) and (3) of the Rule (16 CFR 305.11(a)(5)(i)(H)(2) and (3)) require that labels for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, water heaters, and room air conditioners contain a secondary energy usage disclosure in terms of an estimated annual operating cost (labels for clothes washers and dishwashers will show two such secondary disclosures—one based on operation with water heated by natural gas, and one on operation with water heated by electricity). The labels also must disclose, below this secondary estimated annual operating cost, the fact that the estimated annual operating cost is based on the appropriate DOE energy cost figure, and must identify the year in which the cost figure was published.

<sup>3</sup> The current (2001) ranges for refrigerators, refrigerator-freezers, and freezers were published on

continue to use the foregoing DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figure for electricity then in effect.

#### **2. Room Air Conditioners**

Manufacturers of room air conditioners must continue to derive the operating cost disclosures on labels by using the 1995 Average Representative Unit Costs for electricity (8.67 cents per kiloWatt-hour) that were published by DOE on January 5, 1995 (60 FR 1773), and by the Commission on February 17, 1995 (60 FR 9296), and that were in effect when the current (1995) ranges of comparability for these products were published.<sup>4</sup> Manufacturers of room air conditioners must continue to use the 1995 DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figure for electricity then in effect.

#### **3. Storage-Type Water Heaters**

Manufacturers of storage-type water heaters must continue to derive the operating cost on labels using the 1994 DOE cost figures (8.41 cents per kiloWatt-hour for electricity, 60.4 cents per therm for natural gas, \$1.05 per gallon for No. 2 heating oil, and 98.3 cents per gallon for propane), that were in effect when the 1994 ranges of comparability for storage-type water heaters were published.<sup>5</sup> Manufacturers of storage-type water heaters must continue to use the 1994 DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figures for energy then in effect.

#### **4. Heat Pump Water Heaters**

Manufacturers of heat pump water heaters must continue to derive the operating cost disclosures on labels by using the 2002 Average Representative

November 19, 2001 (66 FR 57867). On November 23, 2003 (68 FR 65631), the Commission announced that the 2001 ranges for these products would remain in effect.

<sup>4</sup> The current (1995) ranges for room air conditioners were published on November 13, 1995 (60 FR 56945). On June 27, 2003 (68 FR 38175), the Commission announced that the 2004 ranges for room air conditioners would remain in effect.

<sup>5</sup> The 1994 DOE cost figures were published by DOE on December 29, 1993 (58 FR 68901), and by the Commission on February 8, 1994 (59 FR 5699). The current (1994) ranges of comparability for storage-type water heaters were published on September 23, 1994 (59 FR 48796). On June 27, 2003 (68 FR 38175), the Commission announced that the 1994 ranges for storage-type water heaters would remain in effect.

Unit Costs for electricity (8.28 cents per kiloWatt-hour) that were published by DOE on April 24, 2002 (67 FR 20104), and by the Commission on June 7, 2002 (67 FR 39269), and that were in effect when the current (2002) ranges of comparability for these products were published.<sup>6</sup> Manufacturers of heat pump water heaters must continue to use the 2002 DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figure for electricity then in effect.

#### 5. Gas-Fired Instantaneous Water Heaters

Manufacturers of gas-fired instantaneous water heaters must continue to base the required secondary operating cost disclosures on labels on the 1999 Average Representative Unit Costs for natural gas (68.8 cents per therm) and propane (77 cents per therm) that were published by DOE on January 5, 1999 (64 FR 487), and by the Commission on February 17, 1999 (64 FR 7783), and that were in effect when the 1999 ranges of comparability for these products were published.<sup>7</sup> Manufacturers must continue to use the 1999 DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figures for natural gas and propane then in effect.

#### 6. Dishwashers

Manufacturers of compact dishwashers must continue to base the required secondary operating cost disclosures on labels on the 2002 Average Representative Unit Costs for electricity (8.28 cents per kiloWatt-hour) and natural gas (65.6 cents per therm) that were published by DOE on April 24, 2002 (67 FR 20104), and by the Commission on June 7, 2002 (67 FR 39269), and that were in effect when the 2002 ranges of comparability for these products were published. Manufacturers of standard dishwashers must base the disclosures of estimated annual operating cost required at the bottom of EnergyGuide labels for standard-sized dishwashers on the 2003 Representative

Average Unit Costs of Energy for electricity (8.41 cents per kiloWatt-hour) and natural gas (81.6 cents per therm) that were published by DOE on April 9, 2003 (68 FR 17361) and by the Commission on May 5, 2003 (68 FR 23584).<sup>8</sup> Manufacturers of dishwashers must continue to use these cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figures for electricity and natural gas then in effect.

#### 7. Clothes Washers

Manufacturers of compact clothes washers must base the disclosures of estimated annual operating cost required at the bottom of EnergyGuide labels for standard-sized dishwashers on the 2003 Representative Average Unit Costs of Energy for electricity (8.41 cents per kilowatt-hour) and natural gas (81.6 cents per therm) that were published by DOE on April 9, 2003 (68 FR 17361) and by the Commission on May 5, 2003 (68 FR 23584). Manufacturers of standard clothes washers must continue to derive the operating cost disclosures on labels by using the 2000 Average Representative Unit Costs for electricity (8.03 cents per kiloWatt-hour) and natural gas (68.8 cents per therm) that were published by DOE on February 7, 2000 (65 FR 5860), and by the Commission on April 17, 2000 (65 FR 20352), and that were in effect when the current (2000) ranges of comparability for these products were published.<sup>9</sup> Manufacturers of clothes washers must continue to use the 2000 DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figures for electricity and natural gas then in effect.

#### *B. Operating Cost Information for Central Air Conditioners and Heat Pumps Disclosed on Fact Sheets and in Industry Directories*

In the 2004 document announcing whether there will be new ranges of comparability for central air conditioners and heat pumps, the Commission also will announce that operating cost disclosures for these products on fact sheets and in industry directories must be based on the 2003

DOE cost figure for electricity beginning on the effective date of that document.

#### *C. Operating Cost Representations for Products Covered by EPCA But Not by the Commission's Rule*

Manufacturers of products covered by section 323(c) of EPCA, 42 U.S.C. 6293(c), but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, and space heaters) must use the 2004 DOE energy costs in all operating cost representations beginning July 29, 2004.

### II. Administrative Procedure Act

The amendments published in this document involve routine, technical and minor, or conforming changes to the Rule's labeling requirements. These technical amendments merely provide a routine change to the cost information in the Rule. Accordingly, the Commission finds for good cause that public comment and a 30-day effective date for these technical, procedural amendments are impractical and unnecessary (5 U.S.C. 553(b)(A)(B) and (d)).

### III. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. These technical amendments merely provide a routine change to the cost information in the Rule. Thus, the amendments will not have a "significant economic impact on a substantial number of small entities." 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

### IV. Paperwork Reduction Act

In a 1988 document (53 FR 22113), the Commission stated that the Rule contains disclosure and reporting requirements that constitute "information collection requirements" as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act.<sup>10</sup> The Commission noted that the Rule had been reviewed and approved in 1984 by the Office of Management and Budget ("OMB") and assigned OMB Control No.

<sup>6</sup>The current (2002) ranges of comparability for heat pump water heaters were published on June 24, 2002 (67 FR 42478). On June 27, 2003 (68 FR 38175), the Commission announced that the 1994 ranges for heat pump water heaters would remain in effect.

<sup>7</sup>The current ranges for gas-fired instantaneous water heaters were published on December 20, 1999 (64 FR 71019). On June 27, 2003 (68 FR 38175), the Commission announced that the 1999 ranges for gas-fired instantaneous water heaters would remain in effect.

<sup>8</sup>The current ranges for compact dishwashers were published on July 19, 2002 (67 FR 47443). The current ranges for standard dishwashers were published on August 11, 2003 (68 FR 47449).

<sup>9</sup>The current (2003) ranges of comparability for compact clothes washers were published on November 24, 2003 (68 FR 65833). The current (2000) ranges of comparability for standard clothes washers were published on May 11, 2000 (65 FR 30351).

<sup>10</sup>44 U.S.C. 3501–3520.

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 <sup>1</sup> |
|-------------------------|--|-----------------------------------|--------------------------------------|
| Electricity .....       | 8.60 ¢/kWh <sup>2,3</sup> .....                              | \$0.0860/kWh .....                | 25.20                                |
| Natural Gas .....       | 91.0 ¢/therm <sup>4</sup> or \$9.35/MCF <sup>5,6</sup> ..... | 0.00000910/Btu .....              | 9.10                                 |
| No. 2 heating oil ..... | \$1.28/gallon <sup>7</sup> .....                             | 0.00000923/Btu .....              | 9.23                                 |
| Propane .....           | \$1.23/gallon <sup>8</sup> .....                             | 0.00001346/Btu .....              | 13.46                                |
| Kerosene .....          | \$1.54/gallon <sup>9</sup> .....                             | 0.00001141/Btu .....              | \$11.41                              |

<sup>1</sup> Btu stands for British thermal unit.  
<sup>2</sup> kWh stands for kilowatt hour.  
<sup>3</sup> 1 kWh = 3,412 Btu.  
<sup>4</sup> 1 therm = 100,000 Btu. Natural gas prices include taxes.  
<sup>5</sup> MCF stands for 1,000 cubic feet.  
<sup>6</sup> For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,027 Btu.  
<sup>7</sup> For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.  
<sup>8</sup> For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.  
<sup>9</sup> For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

\* \* \* \* \*

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