

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13-03-008]

RIN 1625-AA00

Safety Zones; Annual Fireworks Events in the Captain of the Port Portland Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing permanent safety zones on the waters located in their Area of Responsibility during fireworks displays. The Captain of the Port, Portland, Oregon, is taking this action to safeguard watercraft and their occupants from safety hazards associated with these displays. Entry into these safety zones is prohibited unless authorized by the Captain of the Port.

DATES: Comments and related material must reach the Coast Guard on or before May 27, 2003.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Marine Safety Office/Group Portland, 6767 N. Basin Ave., Portland, Oregon 97217. U.S. Coast Guard Marine Safety Office/Group Portland maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at U.S. Coast Guard Marine Safety Office/Group Portland between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Tad Drozdowski, Operations Department, at (503) 240-9370.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD13-03-008), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to U.S. Coast Guard Marine Safety Office/Group Portland 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**.

Background and Purpose

The Coast Guard proposes establishing permanent safety zones to allow for safe fireworks displays. These events may result in a number of vessels congregating near fireworks launching barges. Safety zones are needed to protect watercraft and their occupants from safety hazards associated with fireworks displays.

Discussion of Proposed Rule

This rule, for safety concerns, would control vessel movements in regulated areas surrounding fireworks launching barges. Entry into these zones would be prohibited unless authorized by the Captain of the Port, Portland or his designated representative. Coast Guard personnel would enforce these safety zones. The Captain of the Port may be assisted by other federal and local agencies.

Regulatory Evaluation

This proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 and does not require an assessment of

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potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed this rule under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” include 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 proposed rule would 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 transit the designated areas at the corresponding times as drafted in this proposed rule. These safety zones will not have significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for particular dates, all in the evening when vessel traffic is low. Traffic will be allowed to pass through the zones with the permission of the Captain of the Port or his designated representatives on scene, if safe to do so. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 5 U.S.C. 605-(b) of the Regulatory Flexibility Act (5 U.S.C. 601-612) that this final rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity 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 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will 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.

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 Executive Order 13132 and have determined that this final 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) governs the issuance of Federal regulations that require unfunded mandates. 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 proposed 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This proposed 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 proposed 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 proposed rule and concluded that, under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for regulations establishing safety zones. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. Section 165.1315 is added to read as follows:

§ 165.1315 Safety Zones; Annual fireworks events in the Captain of the Port Portland Zone.

(a) *Safety Zones.* The following areas are designated safety zones:

(1) *Cinco de Mayo Fireworks Display, Portland, OR.*

(i) *Location.* Waters on the Willamette River bounded by the Morrison Bridge to the north, Hawthorne Bridge to the south, and the shoreline to the east and west.

(ii) *Expected date.* One day in early May.

(2) *Portland Rose Festival Fireworks Display, Portland, OR.*

(i) *Location.* Waters on the Willamette River bounded by the Morrison Bridge to the north, Hawthorne Bridge to the south, and the shoreline to the east and west.

(ii) *Expected date.* One day in late May or early June.

(3) *Tri-City Chamber of Commerce Fireworks Display, Columbia Park, Kennewick, WA.*

(i) *Location.* Waters on the Columbia River bounded by shoreline to the north and south, Interstate 395 bridge to the east, and 1000 feet of water to the west of the launching barge which is centered at 46°13.380' N, 119°08.520' W.

(ii) *Expected date.* Every July 4th.

(4) *Cedco Inc. Fireworks Display, North Bend, OR.*

(i) *Location.* Waters on the Coos River bounded by shoreline to the east and west and 1000 feet of water to the north and south of the launching barge which is centered at 43°23.450' N, 124°12.500' W.

(ii) *Expected date.* One day in early July.

(5) *Astoria 4th of July Fireworks, Astoria, OR.*

(i) *Location.* All waters of the Columbia River at Astoria, Oregon enclosed by the following points: North from the Oregon shoreline at 123°50.015' W to 46°11.505' N, thence east to 123°49.150' W, thence south to the Oregon shoreline and finally westerly along the Oregon shoreline to the point of origin.

(ii) *Expected date.* One day in early July.

(6) *Oregon Food Bank Blues Festival Fireworks, Portland, OR.*

(i) *Location.* Waters on the Willamette River bounded by the Hawthorne Bridge to the north, Marquam Bridge to the south, and shoreline to the east and west.

(ii) *Expected date.* One day in early July.

(7) *Oregon Symphony Concert Fireworks Display, Portland, OR.*

(i) *Location.* All waters of the Willamette River bounded by the Hawthorne Bridge to the north, Marquam Bridge to the south, and shoreline to the east and west.

(ii) *Expected date.* One day in late August.

(8) *Fort Vancouver Celebrate America Fireworks Display, Vancouver, WA.*

(i) *Location.* All waters of the Columbia River bounded by 1000 feet of water to the north, shoreline to the south, Interstate Five Bridge to the west and 1000 feet of water to the east of the fireworks launching barge which is centered at 45°36.500' N, 122°40.220' W.

(ii) *Expected date.* One day in late October.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

Dated: March 13, 2003.

Paul D. Jewell,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Prince William Sound 02-011]

RIN 2115-AA97

Security Zone; Port Valdez and Valdez Narrows, Valdez, AK

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The purpose of this supplemental notice of proposed rulemaking (SNPRM) is to amend the Collection of Information (COI) section of the Notice of Proposed Rulemaking (NPRM) preamble for "Security Zone; Port Valdez and Valdez Narrows, Valdez, AK" (NPRM), 67 FR 65074 (Oct. 23, 2002). The original notice proposed new COI requirements that must be included. The original NPRM is reprinted in its entirety for the convenience of the public. The Coast Guard proposes establishing a security zone encompassing the Trans-Alaska Pipeline (TAPS) Valdez Terminal Complex, Valdez, Alaska and TAPS Tank Vessels and a security zone in the Valdez Narrows, Port Valdez, Alaska.

The security zones are necessary to protect the Alyeska Marine Terminal and Vessels from damage or injury from sabotage, destruction or other subversive acts. Entry of vessels into these security zones is prohibited unless specifically authorized by the Captain of the Port, Prince William Sound, Alaska. **DATES:** Comments on the COI section of this SNPRM and related material must reach the Coast Guard on or before May 27, 2003.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Marine Safety Office, P.O. Box 486, Valdez, Alaska 99686. Marine Safety Office Valdez, AK, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Valdez, AK between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lt. Chris Beadle, U.S. Coast Guard Marine Safety Office Valdez, Alaska, at (907) 835-7222.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and material related to the new COI section only. If you do so, please include your name and address, identify the docket number for this rulemaking (COTP Prince William Sound 02-011), indicate that you would like to comment on the new COI section, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them. During the comment period for the NPRM which expired on December 23, 2002 we received no comments. Comments for this SNPRM should address the revised COI section addressed by this SNPRM.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Valdez 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 separate notice in the **Federal Register**.

Background and Purpose

This rulemaking amends the COI section of the NPRM preamble for "Security Zone; Port Valdez and Valdez Narrows, Valdez, AK" (NPRM), 67 FR 65074 (Oct. 23, 2002). The comment period for 67 FR 65074 (Oct. 23, 2002) has run and the original NPRM is reprinted in its entirety for the convenience of the public and is identical to that in the original NPRM. The preamble is also identical to that found in 67 FR 65074 (Oct. 23, 2002) with the exception of the new COI Section. Accordingly, comment on this SNPRM will be limited to the supplemental information contained in the COI section of the preamble. The Coast Guard is taking this action for the immediate protection of the national security interests in light of terrorist acts perpetrated on September 11, 2001. The port of Valdez is a vital national commercial port, supporting the transfer and transport of a significant percentage of oil used in the United States. As such, it is crucial that actions be taken to protect the flow of commerce from possible terrorist or subversive acts designed to damage maritime facilities and vessels transiting to and from the Port of Valdez. The proposed rule would replace existing regulations in 33 CFR 165.1701 and the temporary rule issued in July, which will expire December 31, 2002, that created temporary § 165.17-010, entitled "Port Valdez and Valdez Narrows, Valdez, Alaska." The proposed rule would work to safely control the flow of commercial traffic and protect vital maritime facilities by creating security zones and check-in procedures designed to identify threats for response by appropriate law enforcement resources.

On November 7, 2001, we published three temporary final rules in the **Federal Register** (66 FR 56208, 56210, 56212) that created security zones effective through June 1, 2002. The section numbers and titles for these security zone regulations are—

§ 165.17-003—Security zone; Trans-Alaska Pipeline Valdez Terminal Complex, Valdez, Alaska,

§ 165.17-004—Security zone; Port Valdez, and

§ 165.17-005—Security zones; Captain of the Port Zone, Prince William Sound, Alaska.

On June 4, 2002, we published a temporary final rule (67 FR 38389) that established security zones to replace those security zones that expired June 1,