

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

[CGD13-04-022]

RIN 1625-AA00

Security Zone; Portland Rose Festival on Willamette River**AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone surrounding the City of Portland's Waterfront Park to include all waters of the Willamette River, from surface to bottom, and shoreline to shoreline between the Hawthorne and Steel bridges and underneath these bridges. The Captain of the Port, Portland, Oregon, is taking this action to safeguard the vessels participating in the Portland Rose Festival from terrorism, sabotage, or other subversive acts while the vessels are moored at Waterfront Park. Entry into this zone is prohibited unless authorized by the Captain of the Port.

DATES: This rule is effective from Sunday, June 13, 2004, until the last vessel departs the Waterfront Park on Tuesday, June 15, 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 CGD13-04-022 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office/Group Portland, 6767 N. Basin Ave, Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Xochitl Castañeda, c/o Captain of the Port, Portland Oregon at (503) 240-2594.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On May 29, 2003, the Coast Guard published a final rule (68 FR 31978) establishing a security zone. And on March 26, 2004, we published a notice (69 FR 15681) stating that this year the Portland Rose Festival on Willamette River security zone in 33 CFR 165.1312 would be enforced from June 9, 2004, until June 13, 2004.

It has become necessary, however, to extend the time frame from this final rule by 3 days in order to allow for contingency planning. 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 and incorporating these events into 33 CFR 165.13-1315 would be contrary to public interest because the dates for this event will not always fall on the same day in future years. In addition, immediate action is necessary to ensure the safety and security of vessels participating in the 2004 Portland Rose Festival in the navigable waters of the United States.

Discussion of Rule

This rule, for safety and security concerns, will control vessel movements in a security zone surrounding vessels participating in the 2004 Portland Rose Festival. U.S. Naval Vessels are covered under 33 CFR part 165 subpart G—Protection of Naval Vessels, however, the Portland Rose Festival is a major maritime event that draws many different vessels including Navy, Coast Guard, Army Corps of Engineers, and Canadian Maritime Forces. It is crucial that the same level of security be provided to all participating vessels. Entry into this zone is prohibited unless authorized by the Captain of the Port, Portland or his designated representatives. Commercial vessels that typically transit this section of the Willamette River are pre-designated and will suffer only minor inconveniences. Recreational vessels may suffer from extended delays and can anticipate a vessel inspection. Recreational vessels are encouraged to avoid this area. Recreational vessels will be allowed into the zone on a case-by-case basis following extensive security measures, and as operations permit. Coast Guard personnel will enforce this security zone and 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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security.

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.

This expectation is based on the adequate resources of the Captain of the Port or his designated representatives, which will allow for a quick response to vessels seeking approval to transit through the security zone. For the above reasons, the Coast Guard only anticipates minor 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.

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 might be small entities: the owners or operators of vessels intending to transit or anchor in this portion of the Willamette River. The likely impacts to small entities include minor time delays, potential inspections, and possibly non-entrance if the Captain of the Port or his designated representatives determines that the vessels participating in the Rose Festival are threatened. The security zone will not have a significant economic impact because adequate resources will allow for a timely response from the Captain of the Port or his designated representatives, to vessels seeking transit through the security zone.

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 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 will either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect 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

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.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because the temporary security zone will not last longer than one week in duration. 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 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Temporarily add § 165.T13–004 to read as follows:

§ 165.T13–004 Security Zone; Portland Rose Festival on Willamette River.

(a) *Location.* The following area is a security zone: All waters of the Willamette River, from surface to bottom, between the Hawthorne and Steel bridges and underneath these bridges.

(b) *Effective period.* This section is effective from Sunday, June 13, 2004, until the last vessel departs the Waterfront Park on Tuesday, June 15, 2004.

(c) *Regulations.*

(1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Portland or his designated

representatives. Section 165.33 also contains other general requirements.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port on VHF channel 16 (156.8 MHz) or VHF channel 22A (157.1 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: May 18, 2004.

P.D. Jewell,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD11 04–001]

RIN 1625–AA11

Regulated Navigation Area; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and Connecting Waters, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is designating San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and the connecting waters as a Regulated Navigation Area for the purpose of prohibiting vessels carrying Liquefied Hazardous Gas (LHG) from anchoring in the San Francisco Bay area and requiring them to proceed directly to their intended offload facility. By establishing these requirements, this rule limits the amount of time vessels carrying LHG spend in the heavily populated San Francisco Bay area in order to reduce the chances that vessels carrying LHG could be subject to a terrorist attack or involved in an accident within these waters.

DATES: This rule is effective June 28, 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 CGD11 04–001, and are available for inspection or copying at the Waterways Branch of the Marine Safety Office San Francisco Bay, Coast Guard