

Dated: March 3, 2006.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13-06-001]

RIN 1625-AA11

Regulated Navigation Area; Middle Waterway EPA Superfund Cleanup Site, Commencement Bay, Tacoma, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to create a permanent regulated navigation area on a portion of Commencement Bay, Tacoma, Washington. This regulated navigation area would be used to preserve the integrity of a clean sediment cap placed over certain areas of the Middle Waterway as part of the remediation process at the Commencement Bay, Nearshore/Tideflats Environmental Protection Agency (EPA) superfund cleanup site. This regulated navigation area would prohibit activities that would disturb the seabed, such as anchoring, dragging, trawling, or other activities that involve disrupting the integrity of the cap. It would not affect transit or navigation of the area.

DATES: Comments and related material must reach the Coast Guard on or before April 12, 2006.

ADDRESSES: You may mail comments and related material to Sector Commander, Sector Seattle, 1519 Alaskan Way South, Seattle, Washington 98134. Sector Seattle maintains the public docket [CGD13-06-001] 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 Sector Seattle between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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

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 (CGD13-06-001), 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 Sector Seattle 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 Middle Waterway is part of the Commencement Bay Nearshore/Tideflats Superfund Cleanup Site and is located between the Thea Foss Waterway and the St. Paul Waterway in Commencement Bay, Washington. The site includes property owned by Foss Maritime Company, Simpson Timber Company, and the Washington State Department of Natural Resources (DNR), as well as property leased by Marine Industries Northwest, Inc. (MINI).

Part of the remediation process for the site consists of covering the contaminated sediments with a thick-layer cap. The thick-layer caps consist of approximately three feet of sand, gravel, and light-loose riprap and were placed in various locations within the waterway to contain contaminated sediments. The thick-layer cap areas cover approximately two acres of sediment in the waterway.

Discussion of Proposed Rule

This is to be a permanent regulation restricting activities such as anchoring, dragging, trawling, or other activities that involve disrupting the integrity of the cap. Activities common in the proposed regulated areas include tugboat and log-rafting activities, tugboat moorage, removal and launching of boats for repair and other boat repair and maintenance activities. The thick-layer cap areas were designed

to be compatible with the activities described above that are associated with a working waterfront. The material used for the cap was chosen to be able to contain underlying sediments without altering the main activities of the working waterway.

Regulatory Evaluation

This proposed 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 proposed 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 fact that the regulated areas established by the rule would encompass a small area that should not impact commercial or recreational traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to anchor, dredge, spud, lay cable or disturb the seabed in any fashion when this rule is in effect. The zone would not have a significant economic impact due to its small area.

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 proposed 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.

The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed 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 proposed 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 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 proposed 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to

safety that might 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 would 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.

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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides 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 draft “Environmental Analysis Check List” and a draft “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

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

Proposed Regulation

For the reasons set out 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. 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 § 165.1322 to read as follows:

§ 165.1322 Middle Waterway, Commencement Bay, Tacoma, WA.

(a) *Regulated Areas.* The following areas are regulated navigation areas:

(1) All waters of the Middle Waterway bounded by a line connecting the following points:

Point 1: 47°15'49.337" N,
122°25'55.056" W;
Point 2: 47°15'43.600" N,
122°25'51.453" W;
Point 3: 47°15'43.296" N,
122°25'51.948" W;
Point 4: 47°15'49.159" N,
122°25'55.630" W.
[Datum: NAD 1983].

(2) All waters of the Middle Waterway bounded by a line connecting the following points:

Point 1: 47°15'47.774" N,
122°25'58.517" W;
Point 2: 47°15'45.138" N,
122°25'56.894" W;
Point 3: 47°15'45.113" N,
122°25'57.863" W;
Point 4: 47°15'47.430" N,
122°25'59.644" W.
[Datum: NAD 1983].

(3) All waters of the Middle Waterway bounded by a line connecting the following points:

Point 1: 47°15'43.548" N,
122°25'54.498" W;
Point 2: 47°15'42.288" N,
122°25'53.354" W;
Point 3: 47°15'43.245" N,
122°25'55.476" W;
Point 4: 47°15'42.040" N,
122°25'54.653" W.

[Datum: NAD 1983].

(4) All waters of the Middle Waterway bounded by a line connecting the following points:

Point 1: 47°15'42.288" N,
122°25'55.130" W;
Point 2: 47°15'39.162" N,
122°25'53.835" W;
Point 3: 47°15'39.035" N,
122°25'54.458" W;
Point 4: 47°15'41.738" N,
122°25'55.599" W;
Point 5: 47°15'41.259" N,
122°25'57.162" W;
Point 6: 47°15'41.559" N,
122°25'57.362" W.

[Datum: NAD 1983].

(5) All waters of the Middle Waterway bounded by a line connecting the following points:

Point 1: 47°15'32.879" N,
122°25'49.223" W;
Point 2: 47°15'28.149" N,
122°25'46.088" W;
Point 3: 47°15'28.067" N,
122°25'46.351" W;
Point 4: 47°15'32.129" N,
122°25'49.155" W.

[Datum: NAD 1983].

(b) *Regulations.* All vessels and persons are prohibited from anchoring, dredging, laying cable, dragging, seining, bottom fishing, conducting salvage operations, or any other activity which could potentially disturb the seabed in the designated regulated navigation area. Vessels may otherwise transit or navigate within this area without reservation.

(c) *Waiver.* The Captain of the Port, Puget Sound, upon advice from the U.S. EPA Project Manager and the Washington State Department of Natural Resources, may, upon written request, authorize a waiver from this section if it is determined that the proposed operation supports USEPA remedial objectives, or can be performed in a manner that ensures the integrity of the sediment cap. A written request must describe the intended operation, state the need, and describe the proposed precautionary measures. Requests should be submitted in triplicate, to facilitate review by U.S. EPA, Coast Guard, and Washington State Agencies. USEPA managed remedial design, remedial action, habitat mitigation, or monitoring activities associated with the Middle Waterway Superfund Site are excluded from the waiver requirement.

USEPA is required, however, to alert the Coast Guard in advance concerning any of the above-mentioned activities that may, or will, take place in the Regulated Area.

Dated: February 28, 2006.

Richard R. Houck,

*Admiral, U.S. Coast Guard, Commander,
Thirteenth Coast Guard District.*

[FR Doc. E6-3534 Filed 3-10-06; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 228

RIN 0596-AC20

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[W0-610-411H12-24 1A]

RIN 1004-AD59

Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Onshore Oil and Gas Order Number 1, Approval of Operations

AGENCIES: U.S. Forest Service, Agriculture; Bureau of Land Management, Interior.

ACTION: Further proposed rule; Reopening of comment period.

SUMMARY: This further proposed rule amends the proposed rule published in the **Federal Register** on July 27, 2005 (70 FR 43349). The proposed rule would revise existing Onshore Oil and Gas Order Number 1 (see 48 FR 48916 as amended at 48 FR 56226 (1983)). The Order provides the requirements necessary for the approval of all proposed oil and gas exploratory, development, or service wells on all Federal and Indian (except Osage Tribe) onshore oil and gas leases, including leases where the surface is managed by the U.S. Forest Service (FS). It also covers approvals necessary for subsequent well operations, including abandonment. This further proposed rule amends the proposed rule by making the provisions on the Application for Permits to Drill or Deepen (APD) package processing consistent with the Energy Policy Act of 2005. In addition, this further proposed rule amends a provision in the proposed rule having to do with proposed operations on lands with Indian surface and Federal minerals. This notice also

reopens the comment period for the proposed rule for 30 days.

DATES: Send your comments on this further proposed rule and the proposed rule to the BLM on or before April 12, 2006. The BLM and the FS will not necessarily consider any comments received after the above date during its decision on the rule.

ADDRESSES: Mail: Director (630), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153.

Hand Delivery: 1620 L Street, NW., Suite 401, Washington, DC 20036.

E-mail:

comments_washington@blm.gov.

Federal eRulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

James Burd at (202) 452-5017 or Ian Senio at (202) 452-5049 at the BLM or Barry Burkhardt at (801) 625-5157 at the FS. Persons who use a telecommunications device for the deaf (TDD) may contact these persons through the Federal Information Relay Service (FIRS) at 1-800-877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background and Discussion of Further Proposed Rule
- III. Procedural Matters

I. Public Comment Procedures

You may submit your comments by any one of several methods:

You may mail your comments to:

Director (630), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1004-AD59.

You may deliver comments to: 1620 L Street NW., Suite 401, Washington, DC 20036. You may e-mail your comment to: *comments_washington@blm.gov*. (Include "Attention: AD59" in the subject line).

You may submit your comments via the Federal eRulemaking Portal at <http://www.regulations.gov>.

Please make your comments on the rule as specific as possible, confine them to issues pertinent to the proposed rule or the further proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing.

The Department of the Interior and the FS may not necessarily consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period (see **DATES**) or comments