SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Ivy Laboratories, Div. of Ivy Animal Health, Inc. The ANADA provides for use of single-ingredient Type A medicated articles containing melengestrol and lasalocid to make two-way combination drug Type B or Type C medicated feeds for heifers fed in confinement for slaughter.

DATES: This rule is effective April 4, 2007.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0169, e-mail: *john.harshman@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Ivy Laboratories, Div. of Ivy Animal Health, Inc., 8857 Bond St., Overland Park, KS 66214, filed ANADA 200–451 for use of HEIFERMAX 500 (melengestrol acetate) Liquid Premix and BOVATEC (lasalocid sodium) single-ingredient Type A medicated articles to make dry and liquid, two-way combination drug Type B or Type C medicated feeds for heifers fed in confinement for slaughter. Ivy Laboratories' ANADA 200–451 is approved as a generic copy of NADA 140–288, sponsored by Pharmacia & Upjohn Co., a Division of Pfizer, Inc., for combination use of MGA 500 and BOVATEC. The application is approved as of March 12, 2007, and the regulations are amended in 21 CFR 558.342 to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.342 [Amended]

■ 2. In § 558.342, amend the table in paragraph (e)(1)(iii) in the ''Sponsor'' column by adding in numerical sequence ''021641''.

Dated: March 26, 2007.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E7–6180 Filed 4–3–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 500 and 501

[BOP–1116; AG Order No. 2878–2007]

RIN 1120–AB08

National Security; Prevention of Acts of Violence and Terrorism

AGENCY: Bureau of Prisons, Department of Justice.

ACTION: Final rule.

SUMMARY: This rule finalizes the interim rules on Special Administrative Measures that were published on October 31, 2001 (66 FR 55062). The previously existing regulations authorized the Bureau of Prisons (Bureau), at the direction of the Attorney General, to impose special administrative measures with respect to specified inmates, based on information provided by senior intelligence or law enforcement officials, if determined necessary to prevent the dissemination of either classified information that could endanger the national security, or of other information that could lead to acts of violence and/or terrorism. The interim rule extended the period of time for which such special administrative measures may be imposed from 120 days to up to one year, and modified the standards for approving extensions of such special administrative measures. In addition, where the Attorney General has certified that reasonable suspicion exists to believe that an inmate may use communications with attorneys (or agents traditionally covered by the attorney-client privilege) to further or facilitate acts of violence and/or terrorism, the interim rule amended the previously existing regulations to provide that the Bureau must provide appropriate procedures to monitor or review such communications to deter such acts, subject to specific procedural safeguards, to the extent permitted under the Constitution and laws of the United States. The interim rule also requires the Director of the Bureau of Prisons to give written notice to the inmate and attorneys and/or agents before monitoring or reviewing any communications as described in this rule. The interim rule also provided that the head of each component of the Department of Justice that has custody of persons for whom special administrative measures are determined to be necessary may exercise the same authority to impose such measures as the Director of the Bureau of Prisons.

DATES: *Effective date:* June 4, 2007.

ADDRESSES: Rules Unit, Office of the General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of the General Counsel, Bureau of Prisons, (202) 307–2105.

SUPPLEMENTARY INFORMATION: This rule finalizes interim rules on Special Administrative Measures that were published on October 31, 2001 (66 FR 55062). These rules are codified at 28 CFR 501.2 (national security) and 501.3 (violence and terrorism). We received approximately 5000 comments in opposition to the rule, which we discuss below.

Section 501.2

Section 501.2 authorizes the Director of the Bureau, at the direction of the Attorney General, to impose special administrative measures with respect to a particular inmate that are reasonably necessary to prevent disclosure of classified information. These procedures may be implemented after written certification by the head of a United States intelligence agency that the unauthorized disclosure of such information would pose a threat to the national security and that there is a danger that the inmate will disclose such information. These special administrative measures ordinarily may include housing the inmate in special housing units and/or limiting certain privileges, including, but not limited to,

correspondence, visiting, interviews with representatives of the news media, and use of the telephone, as is reasonably necessary to prevent the disclosure of classified information.

The interim rule made no change in the substantive standards for the imposition of special administrative measures, but changed the initial period of time under § 501.2 from a fixed 120-day period to a period of time designated by the Director, up to one year. The rule also allows the Director to extend the period for the special administrative measures for additional one-year periods, based on subsequent certifications from the head of an intelligence agency that there is a danger that the inmate will disclose classified information and that the unauthorized disclosure of such information would pose a threat to national security. In addition, this rule provides that the subsequent certifications by the head of an intelligence agency may be based on the information available to the intelligence agency.

Section 501.3

Section 501.3 also authorizes the Director of the Bureau, on direction of the Attorney General, to impose similar special administrative measures (with respect to a particular inmate) that are reasonably necessary to protect persons against the risk of death or serious bodily injury. These procedures may be implemented after written notification from the Attorney General or, at the Attorney General's discretion, from the head of a Federal law enforcement or intelligence agency, that there is a substantial risk that an inmate's communications or contacts with other persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons.

The interim rule made no change in the substantive standards for the implementation of special administrative measures under § 501.3(a). However, the interim rule allows the Director, with the approval of the Attorney General, to impose special administrative measures for a longer period of time, not to exceed one year, in cases involving acts of violence and/or terrorism. In addition, the rule provides authority for the Director to extend the period for the special administrative measures for additional periods, up to one year, after receipt of additional notification from the Attorney General or, at the Attorney General's discretion, from the head of a Federal law enforcement or intelligence agency.

The interim rule also modified the standard for approving extensions of the special administrative measures. The rule provides that the subsequent notifications by the Attorney General, or the head of the Federal law enforcement or intelligence agency should focus on the key factual determination—that is, whether the special administrative measures continue to be reasonably necessary, at the time of each determination, because there is a substantial risk that an inmate's communications or contacts with persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons.

Where the Attorney General, or the head of a Federal law enforcement or intelligence agency, initially made such a determination, then the determination made at each subsequent review should not require a de novo review, but only a determination that there is a continuing need for the imposition of special administrative measures in light of the circumstances.

In either case, the affected inmate may seek review of any special administrative measures imposed pursuant to §§ 501.2 or 501.3 in accordance with paragraph (a) of this section through the Administrative Remedy Program, 28 CFR part 542.

Justification for Special Administrative Measures Rules

Although this rule does not alter the substantive standards for the initial imposition of special administrative measures under §§ 501.2 and 501.3, the Bureau's final rule implementing this section in 1997 devoted a substantial portion of the supplementary information accompanying the rule to a discussion of the relevant legal issues. 62 FR 33730–31. As the U.S. Supreme Court noted in *Pell* v. *Procunier*, 417 U.S. 817, 822–23 (1974), ''a prison inmate retains those First Amendment rights that are not inconsistent with his status as an inmate or with the legitimate penological objectives of the corrections system. * * * An important function of the corrections system is the deterrence of crime. * * * Finally, central to all other corrections goals is the institutional consideration of internal security within the corrections facilities themselves.'' (Emphasis added.)

This regulation, with its concern for security and protection of the public, clearly meets this test. The changes made by this rule regarding the length of time and the standards for extension of periods of special administrative measures do not alter the fundamental basis of the rules that were adopted in 1997. Instead, they more clearly focus the provisions for extensions—both the duration of time and the standards—on the continuing need for restrictions on a particular inmate's ability to communicate with others within or outside the detention facility in order to avoid threats to national security or risks of terrorism and/or violence.

In every case, the decisions made with respect to a particular inmate will reflect a consideration of the issues at the highest levels of the law enforcement and intelligence communities. Where the issue is protection of national security or prevention of acts of violence and/or terrorism, it is appropriate for government officials, at the highest level and acting on the basis of their available law enforcement and intelligence information, to impose restrictions on an inmate's public contacts that may cause or facilitate such acts.

Comments

We received approximately 5000 comments in opposition to the rule. All but 44 comments were variations of two form letters. We also received one comment in support of the rule. Other than the single supporting comment, all comments expressed identical and/or overlapping themes. We discuss the comments and our responses below.

Monitoring of Attorney-Client Communications

Comment: The provision allowing monitoring of attorney-client communications breaches attorney-client privilege and deprives inmates of the right to effective assistance of counsel under the Sixth Amendment.

Response: We acknowledge that the Sixth Amendment limits the government's ability to monitor conversations between a detainee and his or her attorney. Nonetheless, as we noted in the preamble to the interim rule, the fact of monitoring by itself does not violate the Sixth Amendment right to effective assistance of counsel. *Weatherford* v. *Bursey*, 429 U.S. 545 (1977). Rather, the propriety of monitoring turns on a number of factors, including the purpose for which the government undertakes the monitoring, the protections afforded to privileged communications, and the extent to which, if at all, the monitoring results in information being communicated to prosecutors and used at trial against the detainee.

In *Weatherford*, a government informant was present at two meetings between a defendant, Bursey, and his attorney during which Bursey and the attorney discussed preparations for Bursey's criminal trial. To preserve his usefulness as an undercover agent, the informant could not reveal that he was working for the government and thus sat through the meetings and heard discussions pertaining to Bursey's defense. Bursey later brought a suit under 42 U.S.C. 1983, claiming that his Sixth Amendment right had been violated. The court of appeals found for Bursey, holding that the informant's presence during the attorney-client meetings necessarily violated Bursey's Sixth Amendment right. The Supreme Court reversed, explaining that

> [t]he exact contours of the Court of Appeals' per se right-to-counsel rule are difficult to discern; but as the Court of Appeals applied the rule in this case, it would appear that if an undercover agent meets with a criminal defendant who is awaiting trial and with his attorney and if the forthcoming trial is discussed without the agent's revealing his identity, a violation of the defendant's constitutional rights has occurred, whatever was the purpose of the agent in attending the meeting, whether or not he reported on the meeting to his superiors, and whether or not any specific prejudice to the defendant's preparation for or conduct of the trial is demonstrated or otherwise threatened. *Weatherford*, 429 U.S. at 550.

The Supreme Court expressly rejected such a *per se* rule and denied that having a government agent hear attorney-client communications results, without more, in an automatic violation of Sixth Amendment rights. Instead, the Court noted that it was significant that the government had acted not with the purpose of learning Bursey's defense strategy, but rather with the legitimate law enforcement purpose of protecting its informant's usefulness. *Id.* at 557. The Court further explained that ''unless [the informant] communicated the substance of the Bursey-Wise conversations and thereby created at least a realistic possibility of injury to Bursey or benefit to the State, there can be no Sixth Amendment violation.'' *Id.* at 557–58.

Thus, the Court indicated that the Sixth Amendment analysis requires considering the government's purpose in overhearing attorney-client consultations and whether any information from overheard consultations was communicated to the prosecution in a manner that prejudiced the defendant.

Weatherford supports the concept that when the government possesses a legitimate law enforcement interest in monitoring detainee-attorney conversations, no Sixth Amendment violation occurs so long as privileged communications are protected from disclosure and no information recovered through monitoring is used by the government in a way that deprives a defendant of a fair trial. This rule adheres to these standards by permitting monitoring only when the Attorney General certifies that reasonable suspicion exists to believe that a particular detainee may use communications with attorneys or their agents to further or facilitate acts of terrorism, and by establishing a strict firewall to ensure that attorney-client communications are not revealed to prosecutors.

Of course, if the government detects communications intended to further acts of terrorism (or other illegal acts), those communications do not fall within the scope of the attorney-client privilege. That privilege affords no protection for communications that further ongoing or contemplated illegal acts, including acts of terrorism. *See, e.g., Clark* v. *United States*, 289 U.S. 1, 15 (1933) (such a client ''will have no help from the law''). The crime-fraud exception applies even if the attorney is unaware that his professional services are being sought in furtherance of an illegal purpose, *see, e.g., United States* v. *Soudan*, 812 F.2d 920, 927 (5th Cir. 1986), and even if the attorney takes no action to assist the client, *see, e.g., In re Grand Jury Proceedings,* 87 F.3d 377, 382 (9th Cir. 1996). A detainee's efforts to use his or her lawyer to plan acts of terrorism simply are not protected by the attorney-client privilege.

This rule carefully and conscientiously balances an inmate's right to effective assistance of counsel against the government's responsibility to thwart future acts of violence and/or terrorism perpetrated with the participation or direction of Federal inmates. In those cases where the government has substantial reason to believe that an inmate may use communications with attorneys or their agents to further or facilitate acts of violence and/or terrorism, the government has a responsibility to take reasonable and lawful precautions to safeguard the public from those acts.

Comment: The monitoring provision of the rule violates the First Amendment right to petition the government, which includes the right to access courts. The commenter argued that the right to access courts involves consulting lawyers in confidence, which, according to the commenters, is infringed upon by this rule. Some commenters also argued that the provision likewise violates the Fifth Amendment by circumventing due process, which requires access to courts to ''challenge unlawful convictions and to seek redress for violations'' of constitutional rights. *Procunier* v. *Martinez*, 416 U.S. 396, 419 (1974).

Response: For the reasons set forth above in our discussion of the monitoring provision and attorney-client privilege, we disagree that the rule infringes upon inmates' rights to consult lawyers in confidence. Inmates retain the same ability to access courts and consult lawyers as they had before the date of the Special Administrative Measures interim rule. We therefore do not change the rule based on these comments.

Further, no due process rights are infringed. An inmate whose conversations with his/her attorney are monitored will enjoy strict procedural protections. First, the inmate and attorney will be notified that their communications are being monitored (§ 501.3(d)(2)). Second, a ''privilege team'' will conduct the monitoring and will be separated by a firewall from the personnel responsible for prosecuting the inmate (§ 501.3 (d)(3)). Third, the privilege team may disclose information only with the prior approval of a Federal judge or where acts of violence and/or terrorism are imminent (§ 501.3(d)(3)). The rule carefully balances inmates' need to communicate with their attorneys against the United States' need to prevent future acts of violence and/or terrorism.

Comment: The monitoring provision in the rule violates the Fourth Amendment and Federal wiretapping statutes (18 U.S.C. 2510–2522). Commenters posited that before the government can intercept oral communications, it must demonstrate to a Federal judge probable cause to believe both that a particular individual is committing a crime, and that the individual will be communicating about that crime. 18 U.S.C. 2518(3).

Response: Title 18, § 2518(7) of the United States Code allows an exception to the court order requirement upon the Attorney General's designee's determination that an emergency situation exists that involves immediate danger of death or serious physical injury to any person, or conspiratorial activities threatening the national security interest. Section 2518(7), (a)(i) and (a)(ii). Therefore, if the Attorney General so authorizes, and if, according to § 2518(7)(b), there are grounds upon which a court order could reasonably have been granted to allow interception of communications, privilege teams as authorized by the Attorney General may monitor attorney-client communications as provided for in this rule.

We note that only persons held under SAM restrictions for acts of violence or terrorism, where lives are directly at risk, may potentially be subjected to monitoring of their attorney-client conversations. Even then, such attorney-client monitoring will be resorted to only after the Attorney General has made a specific determination that it is likely that attorney-client communications will be used to convey improper messages to or from the SAM restrictee. Since the effective date of the interim rule on October 30, 2001, this provision has been invoked only once, after the government obtained specific evidence revealing that the attorney had previously misused the attorney-client privilege in order to convey improper messages to and from her client. In other words, the Attorney General determined that the situation involved ''immediate danger of death or serious physical injury to any person, or conspiratorial activities threatening the national security interest,'' under 18 U.S.C. 2518(7).

As has been recognized by the United States Supreme Court (see our response to the comment above, regarding the Sixth Amendment), the Sixth Amendment does not protect an attorney's communications with a client that are made to further the client's ongoing or contemplated criminal acts. Such communications do not assist in the preparation of a client's defense, and, therefore, are not legally privileged.

Still, before such a SAM restriction may be imposed, the Attorney General must make a specific determination that attorney-client communications will be used to circumvent the purpose of the SAM, that is, to pass information that might reasonably lead to acts of violence or terrorism resulting in death or serious bodily injury, or cause property damage that would lead to the infliction of death or serious bodily injury. Even when attorney-client communications are to be monitored for the purposes of the SAM, these communications remain subject to the attorney-client privilege to the extent recognized under applicable law.

Comment: The monitoring provision is too broad in that it applies unjustly to pretrial inmates, immigration violators, witnesses, and others in Federal (both Bureau of Prisons and non-Bureau) custody.

Response: Before this rulemaking, §§ 501.2 and 501.3 covered only inmates in Bureau of Prisons custody. However, there are instances when a person is held in the custody of other officials of the Department of Justice (for example, the Director of the United States Marshals Service). To ensure consistent application of these provisions relating to special administrative measures in those circumstances where such restrictions are necessary, this rule clarifies that the appropriate officials of the Department of Justice having custody of persons for whom special administrative measures are required may exercise the same authorities as the Director of the Bureau of Prisons and the Warden. In such cases, the persons upon whom the special administrative measures are imposed must fall within the regulatory definition of ''inmate'' at § 500.1.

Previously, the interim rule identified, as an example of an official of the Department of Justice who could exercise the same authorities as the Director of the Bureau of Prisons and the Warden, the Commissioner of the Immigration and Naturalization Service (INS). *See* 66 FR 55064 (Applicability to All Persons in Custody Under the Authority of the Attorney General). On March 1, 2003, however, the INS ceased to exist, and its functions were transferred to the Department of Homeland Security (DHS) pursuant to the Homeland Security Act of 2002 (HSA), Pub. L. No. 107–296, 116 Stat. 2135. Section 441 of the HSA transferred to DHS all functions of the detention and removal program previously under the INS Commissioner. The Secretary of Homeland Security, via Delegation No. 7030, delegated all the authority vested in section 441 of the HSA to the Immigration and Customs Enforcement (ICE), a component of DHS. Accordingly, the detention authority previously exercised by the INS Commissioner now rests with ICE. Given that ICE detainees may be housed in Bureau facilities or Bureau contract facilities, this rule would apply to those inmates.

Inmates convicted of Federal crimes, and many others in custody at Bureau facilities or Bureau contract facilities, such as pretrial inmates, witnesses, and immigration violators, have equal potential to attempt to perpetrate acts of violence and/or terrorism and/or acts that threaten national security. As discussed above and in the preamble to the interim rule (66 FR 55062), neither the special administrative measures previously authorized by this rule nor the monitoring provision currently authorized by this rule will be imposed arbitrarily. The Attorney General will carefully and systematically review each case and the potential threats before imposing special administrative measures or monitoring attorney-client communications.

Regarding ''Vagueness'' of the Rule

According to the commenters, the rule fails to

1. Detail the Administrative Remedies available if inmates oppose Special Administrative Measures (SAM). The Administrative Remedies available, which are the same for any issue an inmate wishes to pursue with the Bureau, are discussed in 28 CFR part 542.

2. Detail SAM conditions (how long confined to cell, program participation, exercise, recreation, training, association with other inmates). We do not detail SAM conditions in this rule because each case varies with the particular security needs of the inmate in question.

3. Define the ''substantial standards'' for imposing SAM.

4. Define what constitutes ''reasonable suspicion'' of terrorist activity which will prompt the Attorney General to monitor attorney-client communications.

For items 3 and 4, as we note above, we do not detail ''substantial standards'' or what will prompt monitoring of attorney-client communications because each case varies with the particular security concerns raised by each situation. In general, however, the Attorney General will determine that SAMs are necessary in light of clear evidence that communication or contact with members of the public could result in death or serious bodily injury or damage to property, as stated in the rule. Generally, this will be shown through prior acts of violence or terrorism and evidence of a continuing threat due to contacts with members of the public who may contribute to or undertake acts of violence or terrorism.

5. Define ''acts of violence or terrorism.''

The United States Code, Title 18, 2332b, describes ''[a]cts of terrorism transcending national boundaries.'' In particular, the ''Federal crime of terrorism'' is defined at length in subsection (g)(5). As such, we need not reiterate that definition in the rule text.

Regulatory Certifications

The Department has determined that this rule is a significant regulatory action for the purpose of Executive Order 12866, and accordingly this rule has been reviewed by the Office of Management and Budget.

The Department certifies, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Act.

Because this rule pertains to the management of offenders committed to the custody of the Department of Justice, its economic impact is limited to the use of appropriated funds.

This rule will not have substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 28 CFR Parts 500 and 501

Prisoners.

■ Accordingly, under rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a), we adopt as final the interim rule published on October 31, 2001, at 66 FR 55062, without change.

Dated: March 29, 2007.

Alberto R. Gonzales,

Attorney General.

[FR Doc. E7–6265 Filed 4–3–07; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–07–012]

RIN 1625–AA00

Safety Zone; Florence Rhodie Days Fireworks Display, Siuslaw River, Florence, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Siuslaw River during a fireworks display. The Captain of the Port, Portland, Oregon is taking this action to safeguard watercraft and their occupants from safety hazards associated with this display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

DATES: This rule is effective on May 9, 2007 from 8:30 p.m. until 11:30 p.m. (PDT).

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (CGD13–07–012) and are available for inspection or copying at U.S. Coast Guard Sector Portland, 6767 N. Basin Avenue, Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Lucia Mack, c/o Captain of the Port, Portland, 6767 N. Basin Avenue, Portland, Oregon 97217 (503–240–2590).

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. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. Publishing an NPRM would be contrary to the public interest because immediate action is necessary to ensure the safety of vessels and spectators gathering in the vicinity of the fireworks launching barge.

Background and Purpose

The Coast Guard is establishing a temporary safety zone to protect against the hazards associated with a fireworks display. This event occurs on the Siuslaw River in Florence, Oregon and is scheduled to start at 10 p.m. and end at approximately 10:15 p.m. on May 9, 2007. This event may result in a number of vessels congregating near the fireworks launching site. The safety zone is needed to protect watercraft and their occupants from safety hazards associated with fireworks displays.

Discussion of Rule

This rule establishes a safety zone to protect vessels and individuals from the hazards associated with a fireworks display. The safety zone will be located on the waters of the Siuslaw River in Florence, Oregon, encompassed by lines connecting the following points, beginning at 43°28′20″ N/124°04′46″ W, thence to 43°25′07″ N/124°04′40″ W, thence to 43°57′48″ N/124°05′54″ W, thence to 43°28′05″ N/124°05′54″ W, thence to the beginning point. This safety zone will commence prior to the launching of the fireworks in order to clear boaters out of the area for their own protection, and will last longer than the scheduled event time in case the fireworks display lasts longer than anticipated.

Entry into this zone is prohibited unless authorized by the Captain of the Port, Portland, or his designated representative. The safety zone will be enforced by representatives of the Captain of the Port, Portland, who may be assisted by other Federal, State, and 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. The rule is not significant because the safety zone will encompass a small portion of the river for a short duration when the vessel traffic is low.

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 may be small entities: The owners or operators of vessels intending to transit or anchor in the affected portion of the Siuslaw River from 8:30 p.m. to 11:30 p.m. on May 9, 2007. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only 3 hours late in the day when vessel traffic is low. Although the safety zone will apply to the entire width of the river, traffic will be allowed to pass through the zone with the permission of the Captain of the Port, or his designated representatives on scene, if it is safe to do so. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the river.

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 the rule so that they can better evaluate its effects on them and participate in the rulemaking process. 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