

Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 0023.1 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This proposed rule involves a temporary safety zone that will be in effect for less than one week. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule. A preliminary “Environmental Analysis Check List” supporting this determination is available in the docket where indicated under the “Public Participation and Request for Comments” section of this preamble. We seek any comments or information that may lead to discovery of a significant environmental impact from this proposed rule”).

List of Subjects 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 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T05–0018 to read as follows:

165.T05–0018 Safety Zone: Hampton Roads Air Show, Back River, Hampton, VA

(a) *Regulated Area.* The following area is a safety zone: All waters in the vicinity of Willoughby Point on Back River within the area bounded by coordinates 37°05′35″ N / 076°20′47″ W, thence to 37°05′43″ N / 076°20′14″ W, thence to 37°05′19″ N / 076°20′02″ W, thence to 37°05′12″ N / 076°20′18″ W. (NAD 1983), in Hampton, VA.

(b) *Definition:* For the purposes of this part, Captain of the Port Representative means: any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulations:* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone Number (757) 668–5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement Period:* This regulation will be enforced from 5 p.m. to 9 p.m. on April 24, 2009 and 9 a.m. to 5 p.m. daily on April 25, 2009 and April 26, 2009.

Dated: January 30, 2009.

Patrick B. Trapp,

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

[FR Doc. E9–6428 Filed 3–23–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–1096]

RIN 1625–AA00

Safety Zones: Fireworks Displays in the Captain of the Port Portland Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes the establishment of several safety zones in the Captain of the Port Portland, Oregon zone for annual fireworks displays that take place around the 4th of July each

year. The safety zones are necessary to help ensure the safety of the maritime public during the events and will do so by prohibiting all persons and vessels from entering the safety zones unless authorized by the Captain of the Port Portland, Oregon or his designated representatives.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before May 26, 2009 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2008–1096 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call BM1 Joshua Lehner, Coast Guard Sector Portland, 6767 N. Basin Ave., Portland, OR 97217–3992, telephone (503) 240–9311. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–1096), indicate the specific section of this

document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert "USCG-2008-1096" in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2008-1096 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or Coast Guard Sector Portland, 6767 N. Basin Ave., Portland, OR 97217-3992, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility 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

Fireworks displays create hazardous conditions for the maritime public as a result of the large number of vessels that congregate near the displays as well as the noise, falling debris, and explosions that occur during the events. The establishment of safety zones around the displays helps to ensure the safety of the maritime public by prohibiting all persons and vessels from coming close to the fireworks displays and their associated hazards.

Discussion of Proposed Rule

The proposed rule will establish several safety zones in the Captain of the Port Portland, Oregon zone for annual fireworks displays that take place around the 4th of July each year. The safety zones are necessary to help ensure the safety of the maritime public during the events and will do so by prohibiting all persons and vessels from entering the safety zones unless authorized by the Captain of the Port Portland, Oregon or his designated representatives.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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. The Coast Guard has made this finding because the rule will have little if any economic impact since the safety zones it establishes will only be enforced for several hours one day each year and will not significantly impede maritime traffic transiting the areas where they are located.

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 will affect the following entities, some of which may be small entities: The owners or operators of vessels wishing to transit one of the safety zones established by this rule. The rule will not have a significant economic impact on a substantial number of small entities, however, because the safety zones it establishes will only be enforced for several hours one day each year and will not significantly impede maritime traffic transiting the areas where they are located.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and 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 (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 BM1 Joshua Lehner, Coast Guard Sector Portland, 6767 N. Basin Ave., Portland, OR 97217-3992, telephone (503) 240-9311. The Coast Guard will not retaliate against small entities that question or complain about this proposed 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 Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves the establishment of several safety zones for fireworks displays. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 165.1315 by adding paragraphs (a)(15)–(24) and revising paragraphs (b) and (c) to read as follows:

§ 165.1315 Safety Zones: Fireworks Displays in the Captain of the Port Portland Zone.

(a) * * *

(15) *Arlington Chamber of Commerce Fireworks Display, Arlington, OR:*

(i) *Location.* All waters of the Columbia River encompassed by lines connecting the following points in the vicinity of Arlington, Oregon: From the southern shore of the Columbia River at 45°43'23" N 120°12'11" W, thence to 45°43'29" N 120°12'12" W, thence to 45°43'31" N 120°12'06" W, thence to the southern shore of the Columbia River at 45°43'26" N 120°12'02" W.

(ii) *Enforcement period.* This safety zone is enforced from approximately 8:30 p.m. to approximately 11:30 p.m. for one day during the last week of June or the first week of July each year.

(16) *East County 4th of July Fireworks, Gresham, OR:*

(i) *Location.* All waters of the Columbia River encompassed in a 500 foot radius around position 45°33'33" N 122°27'03" W.

(ii) *Enforcement period.* This safety zone is enforced from approximately 8:30 p.m. to approximately 11:30 p.m. for one day during the first week of July each year.

(17) *Port of Cascade Locks July 4th Fireworks Display, Cascade Locks, OR:*

(i) *Location.* All waters of the Columbia River encompassed in a 500 foot radius around position 45°40'16" N 121°53'38" W.

(ii) *Enforcement period.* This safety zone is enforced from approximately 8:30 p.m. to approximately 11:30 p.m. for one day during the first week of July each year.

(18) *Astoria Regatta Association Fireworks Display, Astoria, OR:*

(i) *Location.* All waters of the Columbia River encompassed by lines connecting the following points in the vicinity of Astoria, Oregon: From the southern shore of the Columbia River at 46°11'34" N 123°48'33" W, thence to 46°11'52" N 123°48'35" W, thence to

46°11'52" N 123°48'19" W, thence to the southern shore of the Columbia River at 46°11'39" N, 123°48'13" W.

(ii) *Enforcement period.* This safety zone is enforced from approximately 8:30 p.m. to approximately 11:30 p.m. one day during the second weekend of August each year.

(19) *City of Washougal July 4th Fireworks Display, Washougal, WA:*

(i) *Location.* All waters of the Columbia River encompassed by lines connecting the following points in the vicinity of Washougal, Washington: From the northern shore of the Columbia River at 45°33'50" N 122°20'16" W, thence to 45°33'42" N 122°20'29" W, thence to 45°33'53" N 122°20'39" W, thence to the northern shore of the Columbia River at 45°35'04" N 122°20'35" W.

(ii) *Enforcement period.* This safety zone is enforced from approximately 8:30 p.m. to approximately 11:30 p.m. one day during the first week of July each year.

(20) *City of St. Helens 4th of July Fireworks Display, St. Helens, OR:*

(i) *Location.* All waters of the Columbia River encompassed in a 1200 foot radius around position 45°51'51" N 122°47'22" W.

(ii) *Enforcement period.* This safety zone is enforced from approximately 8:30 p.m. to approximately 11:30 p.m. one day during the first week of July each year.

(21) *Waverly Country Club 4th of July Fireworks Display, Milwaukie, OR:*

(i) *Location.* All waters of the Willamette River encompassed by lines connecting the following points in the vicinity of Milwaukie, Oregon: From 45°27'10" N 122°29'35" W, thence to 45°27'12" N 122°39'25" W, thence to 45°26'56" N 122°39'15" W, thence to 45°26'52" N 122°39'25" W.

(ii) *Enforcement period.* This safety zone is enforced from approximately 8:30 p.m. to approximately 11:30 p.m. one day during the first week of July each year.

(22) *Booming Bay Fireworks, Westport, WA:*

(i) *Location.* All waters of Grays Harbor encompassed in a 600 foot radius around position 46°54'14" N 124°06'08" W.

(ii) *Enforcement period.* This safety zone is enforced from approximately 8:30 p.m. to approximately 11:30 p.m. one day during the last week of June or the first week of July each year.

(23) *Hood River 4th of July, Hood River, OR:*

(i) *Location.* All waters of the Columbia River encompassed in a 1000 foot radius around position 45°42'58" N 121°30'31" W.

(ii) *Enforcement period.* This safety zone is enforced from 8:30 p.m. to 11:30 p.m. one day during the last week of June or the first week of July each year.

(24) *Rufus 4th of July Fireworks, Rufus, OR:*

(i) *Location.* All waters of the Columbia River encompassed in a 500 foot radius around position 45°41'30" N 120°45'47" W.

(ii) *Enforcement period.* This safety zone is enforced from approximately 8:30 p.m. to approximately 11:30 p.m. for one day during the last week of June or the first week of July each year.

(b) *Regulations.* In accordance with § 165.23 of this part, no person may enter or remain in these safety zones unless authorized by the Captain of the Port, Portland or his/her designated representative. Also in accordance with § 165.23 of this part, no person may bring into, cause to be brought into, or allow to remain in these safety zones any vehicle, vessel, or object unless authorized by the Captain of the Port, Portland or his/her designated representative.

(c) *Notice.* In accordance with § 165.7 of this part, notification of the specific period of enforcement for each of these safety zones may be made by marine broadcast, local notice to mariners, local news media, distribution in leaflet form, on-scene oral notice, and/or publication in the **Federal Register**.

Dated: March 3, 2009.

F.G. Myer,

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

[FR Doc. E9-6334 Filed 3-23-09; 8:45 am]

BILLING CODE 4910-15-P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket No. RM2009-3; Order No. 192]

Postal Rates

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission announces a new proceeding to address workshare discount methodologies in First-Class Mail and Standard Mail. The proceeding will allow certain issues raised in Docket No. R2009-2 to be fully addressed.

DATES: Comments due May 26, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel,

202-789-6820 and stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION: In a concurrently issued order in Docket No. R2009-2, the Commission largely approves the Postal Service's planned market dominant price changes scheduled to take effect May 11, 2009. That approval includes a commitment to institute a rulemaking proceeding to examine methodologies underlying the calculation of workshare discounts. By this order, the Commission fulfills that commitment.

In Docket No. R2009-2, the Postal Service proposes workshare discounts for First-Class Mail and Standard Mail that are not based on established workshare cost avoidance methodologies. In First-Class, the Postal Service did not use the existing benchmark, bulk metered mail, for calculating workshare discounts and instead based the discounts on presort First-Class Mail delinked from single-piece First-Class Mail. In Standard Mail, the Postal Service did not use the existing methodology based on costs avoided by shape between Basic and High Density, and High Density and Saturation.

In each instance, the Postal Service offers a legal rationale for its approach. It notes First-Class Mail Presort and Single-Piece Letters are separate products and contends that the reference to "each market-dominant product" in the reporting language of U.S.C. 3652(b) therefore excludes the inter-product automation Mixed AADC presort letter discount from the limitations of U.S.C. 3622(e).¹ With respect to Standard Mail, the Postal Service argues that density differences between Carrier Route Basic and High Density, and between High Density and Saturation are not the result of "presorting, prebarcoding, handling, or transportation" as worksharing is defined under 39 U.S.C. 3622(e)(1).²

Numerous parties in both Docket Nos. R2009-2 and ACR2008 contest the Postal Service's rationales.³ Some

¹ See Docket No. R2009-2, Response of the United States Postal Service to Chairman's Information Request No. 1, February 20, 2009; and Docket No. ACR2008, Responses of the United States Postal Service to Commission Order No. 169, January 21, 2009, at 17-18 (Response to Order No. 169).

² See Docket No. R2009-2, Responses of the United States Postal Service to Questions 1-12 of Chairman's Information Request No. 4, March 4, 2009, at 12-13; and Response to Order No. 169 at 17-18.

³ See, e.g., Docket No. R2009-2, Public Representative Comments in Response to Notice of Price Adjustment for Market-Dominant Price Adjustment, March 2, 2009, at 9-12; Initial