

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. Chapters 701; 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. Add § 165.1330 to read as follows:

§ 165.1330 Safety Zone; Fleet Week Maritime Festival, Pier 66, Elliott Bay, Seattle, WA.

(a) *Location.* The following area is a safety zone: All waters extending 100 yards from Pier 66, Elliot Bay, WA within a box encompassed by the points, 47°36.70' N & 122°21.07' W, 47°36.68' N & 122°21.13' W, 47°36.53' N & 122°20.86' W, and 47°36.55' N & 122°20.81' W (NAD 1983). This safety zone does not extend on land.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel may enter, transit, moor, or anchor within this safety zone, except for vessels authorized by the Captain of the Port or Designated Representative. The Captain of the Port may be assisted by other federal, state, or local agencies as needed.

(c) *Authorization.* In order to transit through this safety zone, authorization must be granted by the Captain of the Port Puget Sound or Designated Representative. All vessel operators desiring entry into this safety zone shall gain authorization by contacting either the on-scene U.S. Coast Guard patrol craft on VHF Ch 13 or Ch 16, or Coast Guard Sector Seattle Joint Harbor Operations Center (JHOC) via telephone at (206) 217–6452. Requests shall indicate the reason why movement within the safety zone is necessary, and the vessel's arrival and/or departure facility name, pier and/or berth. Vessel operators granted permission to enter this safety zone will be escorted by the on-scene patrol until no longer within the safety zone.

(d) *Enforcement Period.* This rule is effective during the day of the Fleet Week Maritime Festival occurring on

either the last weekend in July or the first weekend in August, and will be enforced from 8 a.m. until 8 p.m. unless cancelled sooner by the Captain of the Port.

Dated: February 4, 2010.

S.E. Englebert,

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

[FR Doc. 2010–3834 Filed 2–24–10; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0063]

RIN 1625–AA00

Safety Zones; Annual Firework Displays Within the Captain of the Port, Puget Sound Area of Responsibility

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish multiple permanent safety zones to ensure public safety during annual firework displays at various locations the Captain of the Port, Puget Sound Area of Responsibility (AOR). When these safety zones are activated, and thus subject to enforcement, this rule would limit the movement of vessels within the established firework display areas. This action is necessary to prevent injury and to protect life and property of the maritime public from the hazards associated with firework displays. Entry into, transit through, mooring, or anchoring within these zones during times of enforcement is prohibited unless authorized by the Captain of the Port, Puget Sound or Designated Representative.

DATES: Comments and related material must be received by the Coast Guard on or before May 26, 2010. Requests for public meetings must be received by the Coast Guard on or before March 29, 2010.

ADDRESSES: You may submit comments identified by docket number USCG–2010–0063 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 four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Ensign Ashley M. Wanzer, USCG Sector Seattle Waterways Management Division, Coast Guard; telephone 206–217–6175, e-mail SectorSeattleWWM@uscg.mil. If you have questions on viewing 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–2010–0063), 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 (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone 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>, click on the

“submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rule” and insert “USCG–2010–0063” in the “Keyword” box. Click “Search” 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 comments 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>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2010–0063” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. You may also visit 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. 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 on or before 30 days after publication in the **Federal Register** using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting 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**.

For information on facilities or services for individuals with disabilities or to request special assistance at the

public meeting, contact Ensign Ashley M. Wanzer at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Background and Purpose

The U.S. Coast Guard is proposing to establish multiple permanent safety zones to ensure public safety during annual firework shows occurring within the Captain of the Port, Puget Sound, WA, AOR. These events may result in a number of vessels congregating near fireworks launching barges and sites. These safety zones are necessary to protect watercraft and their occupants from the hazards associated with fireworks displays. The Captain of the Port, Puget Sound, may be assisted by other Federal, State and local agencies in the enforcement of this safety zone.

The Coast Guard typically receives numerous applications in these geographic areas for firework displays. Currently, temporary safety zones are established on an emergency basis for each individual display thereby limiting opportunity for public comment. Establishing permanent safety zones through notice and comment rulemaking provides the public the opportunity to comment on safety zone locations, size and length of time each zone will be enforced. Additionally, this proposed rule includes a variety of locations and date ranges to allow for speedy and safe activation of permanent safety zones. Firework displays occur in these locations and on these dates with regularity. The establishment of multiple permanent safety zones provides enhanced public safety measures by reducing the number of emergency safety zones needed for firework displays. Notification of the specific dates and time for activation of safety zones will be available to the maritime public.

Each year organizations sponsor firework displays in the same general location and time period. Each event uses a barge, a tug and a barge, or an on-shore site near the shoreline as the fireworks launch platform. A safety zone is used to control vessel movement within a specified distance surrounding the launch platforms to ensure the safety of persons and property. An on-scene patrol commander may allow persons within the safety zone if conditions permit.

The Captain of the Port, Puget Sound, will give notice of the enforcement of each safety zone by all appropriate means to provide the widest publicity among the affected segments of the public. This will include publication in the Local Notice to Mariners and Marine

Information Broadcasts. The public will also be notified about many of these firework displays by local newspapers, radio and television stations. These various methods of notification will facilitate informing mariners so they may adjust their plans accordingly.

Firework barges or launch sites on land used in locations stated in this proposed rule shall display a sign. The sign will be affixed to the port and starboard side of the barge or mounted on a post 3 feet above ground level when on land and in close proximity to the shoreline facing the water labeled “FIREWORKS—DANGER—STAY AWAY”. This will provide on scene notice that the safety zone is, or will, be enforced on that day. This notice will consist of a diamond shaped sign, 4 foot by 4 foot, with a 3 inch orange retro-reflective border. The word “DANGER” shall be 10 inch black block letters centered on the sign with the words “FIREWORKS” and “STAY AWAY” in 6 inch black block letters placed above and below the word “DANGER” respectively on a white background. There will also be an on-scene patrol vessel present to enforce the safety zone 30 minutes prior to the start and 30 minutes after the conclusion of the fireworks display.

The enforcement period for the proposed safety zones are from 5:30 p.m. until 1 a.m. local time. However, vessels may enter, remain in, or transit through these safety zones during this timeframe if authorized by the Captain of the Port or designated on-scene patrol commander.

This proposed rule is necessary to protect the safety of life and property on navigable waters during these firework events and provide the marine community information on safety zone locations, size and length of time the zones will be active.

Discussion of Proposed Rule

This proposed rule will create permanent safety zones on the waterways of Puget Sound, WA to assist in minimizing the inherent dangers associated with firework displays. These safety zones will extend 450 yards from their launch site. This zone size allows for the use of up to a 16” mortar shell in annual firework displays. However, safety zones will only be enforced for the appropriate size for the largest mortar shell used. These zones are nominal in size and are typically positioned in areas which allow for transit around the zone thus the safety zones have an inconsequential impact on the majority of waterway users. These zones are also short in duration and allow waterway users to enter or

transit through the zone when deemed safe by the on-scene patrol commander. The COTP, through this action, intends to promote the safety of personnel, vessels, and facilities in the area.

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. This proposed rule is not a significant regulatory action because the period of enforcement and size of these safety zones is minimal.

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 temporary rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit a portion of the affected waterways while this rule is enforced. These safety zones will not have significant economic impact on a substantial number of small entities for the following reasons. This temporary rule will be in effect for minimal times when vessel traffic volume is low and are limited in size. If safe to do so, traffic will be allowed to pass through the zone with the permission of the Captain of the Port or Designated Representative.

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 process. 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 Ensign Ashley Wanzer via the contact information listed under **FOR FURTHER INFORMATION** in this docket. 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 023-01 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 multiple discharging of various aerial shelled fireworks within the COTP Puget Sound AOR. Each event will individually comply with NEPA requirements on an annual basis as ensured through the requirement of an annual marine event permit. 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. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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 § 165.1332 to read as follows:

§ 165.1332 Safety Zones; Annual Firework Displays within the Captain of the Port, Puget Sound Area of Responsibility.

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

(1) All waters of Puget Sound, WA extending to a 450 yard radius from the following launch sites:

CAPTAIN OF THE PORT PUGET SOUND AOR ANNUAL FIREWORK DISPLAYS

Event name (typically)	Event location	Latitude	Longitude
Steilicom Annual Fireworks	Steilicom	47°10.4' N	122°36.2' W
Tacoma Freedom Fair	Commencement Bay	47°16.817' N	122°27.933' W
City of Anacortes Fireworks	Fidalgo Bay	47°17.1' N	122°28.4' W
Alderbrook Resort & Spa Fireworks	Hood Canal	47°21.033' N	123°04.1' W
Fireworks Display	Henderson Bay	47°21.8' N	122°38.367' W
Des Moines Fireworks	Des Moines	47°24.117' N	122°20.033' W
Three Tree Point Community Fireworks	Three Tree Point	47°27.033' N	122°23.15' W
City of Renton Fireworks	Renton, Lake Washington	47°29.986' N	122°11.85' W
Port Orchard Fireworks	Port Orchard	47°32.883' N	122°37.917' W
Chimes and Lights	Port Orchard	47°32.75' N	122°38.033' W
Seattle Seafair	Lake Washington	47°34.333' N	122°16.017' W
Mercer Island Celebration	Mercer Island	47°35.517' N	122°13.233' W
Medina Days	Medina Park	47°36.867' N	122°14.5' W
Bainbridge Island Fireworks	Eagle Harbor	47°37.267' N	122°31.583' W
Whaling Days	Dyes Inlet	47°38.65' N	122°41.35' W
Yarrow Point Community	Yarrow Point	47°38.727' N	122°13.466' W
City of Kenmore Fireworks	Lake Forest Park	47°39.0' N	122°13.55' W
Kirkland Concours D'Elegence	Kirkland	47°39.521' N	122°12.439' W
Kirkland Fireworks	Kirkland	47°40.583' N	122°12.84' W
Liberty Bay Fireworks	Liberty Bay	47°43.917' N	122°39.133' W
Sheridan Beach Community	Lake Forest Park	47°44.783' N	122°16.917' W
Langlie's Old Fashioned Independence Celebration	Indianola	47°44.817' N	122°31.533' W
Lake Forest Park Fireworks	Lake Forest Park	47°45.117' N	122°16.367' W
Vashon Island Fireworks	Quartermaster Harbor	47°45.25' N	122°15.75' W
Kingston Fireworks	Appletree Cove	47°47.65' N	122°29.917' W
Mikilteo Lighthouse Festival	Possession Sound	47°56.9' N	122°18.6' W
Brewster Fire Department Fireworks	Brewster	48°06.367' N	119°47.15' W
Port Angeles	Port Angeles Harbor	48°07.033' N	123°24.967' W
Port Townsend Sunrise Rotary	Port Townsend	48°08.067' N	122°46.467' W
Friday Harbor Independence	Friday Harbor	48°32.6' N	122°00.467' W
Roche Harbor Fireworks	Roche Harbor	48°36.7' N	123°09.5' W
Deer Harbor Annual Fireworks Display	Deer Harbor	48°37.0' N	123°00.25' W
Orcas Island	Orcas Island	48°41.317' N	122°54.467' W
Blast Over Bellingham	Bellingham Bay	48°44.933' N	122°29.667' W
True Colors Event	Blaine	48°59.488' N	122°46.339' W
John Eddy Wedding	Magnolia Bluff	49°38.988' N	122°25.356' W
City of Mount Vernon Fireworks	Edgewater Park	48°25.178' N	122°20.424' W
Chase Family Fourth at Lake Union	Lake Union	47°38.418' N	122°20.111' W

(2) [Reserved]

(b) *Special Requirements*. Firework barges or launch sites on land used in locations stated in this proposed rule shall display a sign. The sign will be

affixed to the port and starboard side of the barge or mounted on a post 3 feet above ground level when on land and in close proximity to the shoreline facing the water labeled "FIREWORKS—

DANGER—STAY AWAY". This will provide on scene notice that the safety zone is, or will, be enforced on that day. This notice will consist of a diamond shaped sign, 4 foot by 4 foot, with a 3

inch orange retro-reflective border. The word "DANGER" shall be 10 inch black block letters centered on the sign with the words "FIREWORKS" and "STAY AWAY" in 6 inch black block letters placed above and below the word "DANGER" respectively on a white background. There will also be an on-scene patrol vessel present to enforce the safety zone 30 minutes prior to the start and 30 minutes after the conclusion of the fireworks display.

(c) *Notice of Enforcement.* These safety zones will be activated and thus subject to enforcement, under the following conditions: The Coast Guard must receive and approve a marine event permit for each firework display and then the Captain of the Port will cause notice of the enforcement of these safety zones to be made by all appropriate means to provide notice to the affected segments of the public as practicable, in accordance with 33 CFR 165.7(a). The Captain of the Port will issue a Broadcast Notice to Mariners and Local Notice to Mariners notifying the public of activation and suspension of enforcement of these safety zones. Additionally, an on-scene Patrol Commander will ensure enforcement of this safety zone by limiting the transit of non-participating vessels in the designated areas described above.

(d) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel may enter, transit, moor, or anchor within this safety zone, except for vessels authorized by the Captain of the Port or Designated Representative.

(e) *Authorization.* All vessel operators who desire to enter the safety zone must obtain permission from the Captain of the Port or Designated Representative by contacting either the on-scene patrol craft on VHF Ch 13 or Ch 16 or the Coast Guard Sector Seattle Joint Harbor Operations Center (JHOC) via telephone at (206) 217-6002.

(f) *Enforcement Period.* This rule will be enforced from 5:00 pm until 1:00 am each day a barge with a "FIREWORKS—DANGER—STAY AWAY" sign is located within any of the designated safety zone locations listed in paragraph (a) of this section and meets the criteria established in paragraph (b) of this section, within the following timeframes:

- (1) The last two weeks of December until the conclusion of the first weekend of January.
- (2) The last weekend of June until the conclusion of the third week in July.
- (3) The second weekend of August until the conclusion of the fourth week of August.

(4) The first weekend of September until the conclusion of the third week of September.

(5) The first weekend of December.

(g) *Contact Information.* Questions about safety zones and related events should be addressed to COMMANDER (spw), U.S. COAST GUARD SECTOR, Attention: Waterways Management Division, 1519 Alaskan Way South, Seattle, WA 98134-1192.

Dated: February 4, 2010.

L.R. Tumbarello,

Commander, U.S. Coast Guard, Captain of the Port, Puget Sound Acting.

[FR Doc. 2010-3812 Filed 2-24-10; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Atlantic Ocean off John F. Kennedy Space Center, FL; Restricted Area

AGENCY: United States Army Corps of Engineers, Department of Defense.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to revise its regulations to establish a new restricted area in the Atlantic Ocean off the coast of the John F. Kennedy Space Center (KSC), Florida. The KSC is the main launch facility for the National Aeronautics and Space Administration (NASA) and they need to have the capability to secure their shoreline at KSC. This amendment to the existing regulations is necessary to enhance KSC's ability to secure their shoreline to counter postulated threats to their facilities and to provide for safe launch operations.

DATES: Written comments must be submitted on or before March 29, 2010.

ADDRESSES: You may submit comments, identified by docket number COE-2010-0001, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-mail: david.b.olson@usace.army.mil. Include the docket number, COE-2010-0001, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson), 441 G Street, NW., Washington, DC 20314-1000.

Hand Delivery/Courier: Due to security requirements, we cannot

receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE-2010-0001. All comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to the Corps without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk- or CD-ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202-761-4922 or Mr. Jon M. Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division, at 904-232-1680.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is