

## Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01, and Commandant Instruction M16475.ID which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have 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 because it simply promulgates the operating regulations or procedures for drawbridges. 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 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.661 to read as follow:

#### § 117.661 Duluth Ship Canal (Duluth-Superior Harbor).

The draw of the Duluth Ship Canal Aerial bridge, mile 0.25 at Duluth, shall open on signal; except that, from the Friday before Memorial Day through the Tuesday after Labor Day each year, between the hours of 7 a.m. and 9 p.m., seven days a week, the drawbridge shall open on the hour and half-hour for vessels under 300 gross tons, if needed; and the bridge will open on signal for all vessels from 9 p.m. to 7 a.m., seven days a week, and at all times for Federal, State, and local government vessels, vessels in distress, commercial vessels engaged in rescue or emergency salvage operations, commercial-assist towing vessels engaged in towing or port operations, vessels engaged in pilot duties, vessels seeking shelter from severe weather, and all vessels 300 gross tons or greater. From January 1 through March 15, the draw shall open on signal if at least 12 hours notice is given. The opening signal is one prolonged blast, one short blast, one prolonged blast, one short blast. If the drawbridge is disabled, the bridge authorities shall give incoming and outgoing vessels timely and dependable notice, by tug

service if necessary, so that the vessels do not attempt to enter the canal.

Dated: November 23, 2010.

**M.N. Parks,**

*Rear Admiral, U.S. Coast Guard Commander, Ninth Coast Guard District.*

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**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-1134]

RIN 1625-AA87

#### Security Zone; Vessels Carrying Hazardous Cargo, Sector Columbia River Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes the establishment of a 500 yard security zone around vessels carrying hazardous cargo, as determined by the Captain of the Port (COTP) Columbia River, when such vessels are located in the Sector Columbia River COTP Zone as defined in 33 CFR 3.65-15 and the COTP Columbia River determines that a security zone is necessary and enforcement of that security zone is practicable. The security zones will help ensure the security of the vessels themselves as well as the maritime public due to the hazardous nature of the cargo on board.

**DATES:** Comments and related material must be received by the Coast Guard on or before March 8, 2011. Requests for public meetings must be received by the Coast Guard on or before January 24, 2011.

**ADDRESSES:** You may submit comments identified by docket number USCG-2009-1134 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 proposed rule, call or e-mail MST1 Jaime Sayers, Waterways Management Division, Coast Guard Sector Columbia River; telephone 503-240-9319, e-mail [Jaime.A.Sayers@uscg.mil](mailto:Jaime.A.Sayers@uscg.mil). 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-2009-1134), 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 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>, 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-2009-1134” 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 we 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-2009-1134" 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, system of records 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 January 24, 2011 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**.

### Background and Purpose

Vessels carrying hazardous cargo occasionally operate in the Sector Columbia River COTP Zone. Examples of hazardous cargoes include, but are not limited to, liquefied petroleum gas, ammonium nitrate and associated mixtures, anhydrous ammonia, and chlorine. The security zones that would be created by this rule will help ensure the security of the vessels themselves as

well as the maritime public in general by prohibiting all persons or vessels from coming within 500 yards of such vessels while located in Sector Columbia River COTP Zone. In the past, the COTP Columbia River has issued temporary security zones to cover certain vessels carrying hazardous cargo.

### Discussion of Proposed Rule

The Coast Guard proposes the establishment of a 500 yard security zone around any vessel carrying hazardous cargo, as determined by the COTP Columbia River, when such a vessel is located in the Sector Columbia River COTP Zone as defined in 33 CFR 3.65-15 and the COTP Columbia River determines that a security zone is necessary and enforcement of that security zone is practicable.

All persons and vessels would be prohibited from entering or remaining in the security zone unless authorized by the COTP Columbia River. The maritime public will be notified when a security zone is effective via the presence of one or more Coast Guard vessels to enforce the zone and a local broadcast notice to mariners.

### 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 determination based on the fact that the security zones created by this rule will only be in effect during the limited periods of time when vessels carrying hazardous cargo, as determined by the COTP Columbia River, are located in the Sector Columbia River COTP Zone. In addition, maritime traffic will be able to transit around the security zones or, if necessary, may be allowed to transit through the security zones with permission from the COTP Columbia River.

### 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 rule will not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to operate in an area covered by a security zone created by this rule. The security zones created by this rule will not have a significant economic impact on a substantial number of small entities, however, because they will only be in effect during the limited periods of time when vessels carrying hazardous cargo, as determined by the COTP Columbia River, are located in the Sector Columbia River COTP Zone. In addition, maritime traffic will be able to transit around the security zones or, if necessary, may be allowed to transit through the security zones with permission from the COTP Columbia River.

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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact MST1 Jaime Sayers, Waterways Management Division, Coast Guard Sector Columbia River at telephone 503-240-9319. 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 (adjusted for inflation) 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 cause 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. We invite your comments on how this proposed rule might impact Tribal governments, even if that impact may not constitute a “Tribal implication” under the Order.

### 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 M16475.1D, 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. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule

involves the establishment of a security zone. Therefore, this rule would be categorically excluded under Figure 2–1, paragraph (34) (g) of Commandant Instruction M16475.1D, which addresses regulations establishing, disestablishing, or changing regulated navigable areas and security or safety zones. 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, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.1335 to read as follows:

#### § 165.1335 Security Zone; Vessels Carrying Hazardous Cargo, Sector Columbia River Captain of the Port Zone.

(a) *Location.* The following area is a security zone: All waters within 500 yards, in all directions, of any vessel carrying hazardous cargo, as determined by the Captain of the Port (COTP) Columbia River, while such a vessel is located in the Sector Columbia River COTP Zone as defined in 33 CFR 3.65–15 and the COTP Columbia River determines that a security zone is necessary and enforcement of the security zone is practicable.

(b) *Regulations.* (1) In accordance with the general regulations in 33 CFR part 165, subpart D, no person or vessel may enter or remain in a security zone created by this section without the permission of the COTP Columbia River or his/her designated representative. Designated representatives are Coast Guard personnel authorized by the COTP Columbia River to grant persons or vessels permission to enter or remain in a security zone created by this section. Subpart D of 33 CFR part 165 contains additional provisions applicable to a security zone created by this section.

(2) To request permission to enter a security zone created by this section, contact Coast Guard Sector Columbia River at telephone number 503–861–

6212 or via VHF channel 16 (156.8 MHz) or VHF channel 22 (157.1 MHz).

(c) *Notification.* When a security zone is created by this section, one or more Coast Guard vessels will be present to enforce the security zone and the COTP Columbia River will issue a local broadcast notice to mariners.

Dated: November 5, 2010.

**D.E. Kaup,**

*Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.*

[FR Doc. 2010-30738 Filed 12-7-10; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 49

[EPA-R09-OAR-2010-0683; FRL-9235-3]

#### Extension of Public Comment Period and Postponement of Public Hearings for Source Specific Federal Implementation Plan for Implementing Best Available Retrofit Technology for Four Corners Power Plant: Navajo Nation

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of extended public comment period and postponed public hearings.

**SUMMARY:** On October 19, 2010, EPA published in the **Federal Register** our proposed determination of the Best Available Retrofit Technology (BART) for the Four Corners Power Plant and requested comment by December 20, 2010. EPA is extending the public comment period until March 18, 2011, for our proposed BART determination. EPA is also postponing the open houses and public hearings announced in the **Federal Register** on November 12, 2010 and will provide additional notice and details of the rescheduled hearings at a later time.

**DATES:** Comments must be submitted no later than March 18, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2010-0683, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

*E-mail:* [r9air\\_fcpcbpart@epa.gov](mailto:r9air_fcpcbpart@epa.gov).

*Mail or deliver:* Anita Lee (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available

online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**FOR FURTHER INFORMATION CONTACT:** If you have questions please contact Anita Lee, EPA Region IX, (415) 972-3958, [r9air\\_fcpcbpart@epa.gov](mailto:r9air_fcpcbpart@epa.gov).

**SUPPLEMENTARY INFORMATION:** On October 19, 2010, the Region 9 Office of the United States Environmental Protection Agency (EPA) proposed a Source Specific Federal Implementation Plan to implement the Best Available Retrofit Technology for Four Corners Power Plant, located on the Navajo Nation (75 FR 64221). The Clean Air Act's Regional Haze Rule requires the use of Best Available Retrofit Technology (BART) at older coal-fired power plants to reduce haze and improve visibility.

On November 12, 2010, EPA published in the **Federal Register** (75 FR 69373) a notice of three sets of open houses and public hearings to be held at three locations in the Four Corners Area on December 6-9, 2010. EPA is postponing the open houses and public hearings and will provide additional notice and details of the rescheduled hearings at a later time.

EPA published notices of open houses and public hearings, to be held December 7-9, 2010 in Shiprock, NM, Farmington, NM, and Durango, CO, in the Farmington Daily Times and the Durango Herald on November 3, 2010 and the Navajo Times on November 4, 2010. Notice of these hearings was additionally published in the **Federal Register** on November 12, 2010 (75 FR 69373). On Thursday, November 11, 2010, EPA published notice in the Navajo Times of an additional open house and public hearing to be held at the Nenahnezad Chapter House in Fruitland, NM. The public comment

period for the proposal was scheduled to close on December 20, 2010.

EPA proposed requiring the Four Corners Power Plant to meet a plant-wide limit of 0.11 lb/MMBtu, representing an 80% reduction in emissions of nitrogen oxides (NO<sub>x</sub>) to achieve cleaner, healthier air while improving the visibility at sixteen of our most pristine national parks and wilderness areas. EPA's proposal can be achieved by installing and operating selective catalytic reduction (SCR) on all five units. EPA is also proposing a particulate matter (PM) emission limit of 0.012 lb/MMBtu for the three smaller units that will require additional controls for fine particles, and is also requesting comment on whether BART can be met on the three smaller units by requiring an emission limit of 0.03 lb/MMBtu with a 20% opacity limit. Reduction of fine particles may help reduce the visible secondary plume that is often emanating from these three units. For the two larger units at Four Corners Power Plant, EPA is proposing an emission limit of 0.015 lb/MMBtu, achievable with proper operation of the existing baghouses.

On November 9, 2010, EPA met with representatives from Arizona Public Service (APS), co-owner and operator of FCPP. APS discussed an alternative proposal that calls for shutting down Units 1-3 at FCPP by 2014 and installing SCR on Units 4 and 5 by 2018. APS claims this plan will result in larger emissions reductions than EPA's proposal without layoffs at the facility. A record of this meeting has been posted to the docket for this proposed rulemaking. APS plans to submit their alternative proposal and supporting analysis to EPA shortly. EPA will make this submittal from APS available from our docket when it is received. The link to the docket can be reached at the following Web site: <http://www.epa.gov/region9/air/navajo/index.html#proposed> or from <http://www.regulations.gov>, identified by EPA Docket Number: EPA-R09-OAR-2010-0683.

EPA is extending the public comment period for our proposal to March 18, 2011 and postponing the scheduled open houses and public hearings to allow EPA and the public time to assess the alternative proposal submitted by APS. EPA may supplement our proposal with additional information following our analysis of APS' submission. If EPA supplements our original proposal, we will publish the supplement in the **Federal Register** and provide supporting documentation in our docket. The dates for the rescheduled open houses and public hearings have