

**Tier 3 Flags: Temporary Risk to the Department**

Tier 3 flags relate to a single and/or less serious incident of non-compliance and can be resolved and removed.

Flag type	Reason	Duration of flag
Failure to File Financial Statements .....	Automatically Flagged when the Annual Financial Statements are overdue.	Removed when the missing Annual Financial Statements are filed or five (5) years after the placement date of the flag, whichever is sooner.
Delinquent three or more times in the last year	Flagged when borrower fails to remit mortgage payment by the fifteenth of the month, three or more times in a given one-year period.	Removed when there is a one-year period of time in which borrower has made all mortgage payments by the fifteenth of each respective month, or five (5) years after the placement date of the flag, whichever is sooner.
Unacceptable Physical Condition .....	Most recent REAC score is below 60, and additional (does not need to be consecutive) REAC score(s) below 60 over the past five years..	Removed when the most recent REAC score is above 59.
Unsatisfactory Management Review .....	Flagged when there is an Unsatisfactory Management Review.	Removed when there is a Satisfactory Management Review, or five (5) years after the placement date of the flag whichever is sooner.
Violation of Business Agreements-Unauthorized Distributions.	One incident of Unauthorized Distributions .....	Removed when the unauthorized distribution is repaid or five (5) years after the placement date of the flag whichever is sooner.
Violation of Business Agreements-Material Unresolved Audit Findings.	Material Unresolved Audit Findings .....	Removed when the finding is resolved or five (5) years after the placement date of the flag whichever is sooner.
Failure to Provide or Comply with Action Plan ..	Failure to provide or comply with a HUD required action plan and/or certification in a timely manner..	Removed when the action plan is received and in good standing or five (5) years after the placement date of the flag whichever is sooner.

**Significant Changes to the Guide**

HUD will not make any significant changes to the Guide without first offering advance notice and the opportunity for comment for a period of not less than 30 days.

[FR Doc. 2016-11346 Filed 5-16-16; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2016-0370]

RIN 1625-AA00

**Safety Zone; Annual Roy Webster Cross-Channel Swim, Columbia River, Hood River, OR**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a safety zone on the Columbia River in Hood River, OR. This action is necessary to help ensure the safety of the maritime public during a cross-channel swimming event and would do so by prohibiting unauthorized persons and vessels from entering the safety

zone unless authorized by the Sector Columbia River Captain of the Port or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before June 16, 2016.

**ADDRESSES:** You may submit comments identified by docket number USCG-2016-0370 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Ken Lawrenson, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503-240-9319, email [msupdxwwm@uscg.mil](mailto:msupdxwwm@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section

U.S.C. United States Code

**II. Background, Purpose, and Legal Basis**

The Roy Webster Cross-Channel Swim is an annual event that has been occurring for the last 74 years on the Columbia River in the vicinity of Hood River, OR. Registered participants attend the event on Labor Day each year and are ferried across the Columbia River from the Hood River Marina to the Washington shore to start the event. From there the swimmers jump off the ferry and swim back across the river, following a swim lane that is lined with volunteers in sailboats, kayaks and paddleboards. Approximately 300 swimmers participate in this event annually.

The Captain of the Port, Columbia River (COTP) has determined that potential hazards associated with cross-channel swims could be a safety concern for the event participants, any other mariners transiting the area during the event hours, and a potential threat to the marine environment.

The purpose of this rulemaking is to ensure the safety of event participants, the marine environment and the protection of the navigable waterway during the scheduled event. The Coast

Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

### III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone on Labor Day of each year between 6 a.m. and noon. As the event consists of swimmers crossing the navigable channel, the Coast Guard feels that it would be necessary to establish a safety zone that would cover all waters of the Columbia River between river mile 169 and river mile 170. Vessels needing to transit through the safety zone during the event would be permitted to enter the safety zone only by obtaining permission from the COTP or a designated representative. The regulatory text the Coast Guard is proposing appears at the end of this document.

### IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

#### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, short duration, and the event's long history. Commercial vessel traffic would be able to transit the area with permission from the COTP or a designated representative. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

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.

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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### E. 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.

#### F. 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 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting approximately six hours that would prohibit entry within a specified section of the Columbia River in the vicinity of Hood River, OR. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

## V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

### 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.1342 to read as follows:

### §165.1342 Annual Roy Webster Cross-Channel Swim, Columbia River, Hood River, OR.

(a) *Regulated area.* The following regulated area is a safety zone. The safety zone will encompass all waters of the Columbia River between River Mile 169 and River Mile 170.

(b) *Definition.* As used in this section—

*Designated representative* means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Sector Columbia River in the enforcement of the regulated area.

*Non-participant person* means a person not registered as a swimmer in the Roy Webster Cross-Channel Swim held on the Columbia River in the vicinity of Hood River, OR, each Labor Day.

(c) *Regulations.* In accordance with the general regulations in 33 CFR part 165, subpart C, non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by Captain of the Port Sector Columbia River or a designated representative.

(1) Non-participant persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port Sector Columbia River or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Sector Columbia River or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Sector Columbia River or a designated representative.

(2) The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners and on-scene designated representatives.

(d) *Enforcement period.* This safety zone will be enforced on Labor Day of each year, between the hours of 6 a.m. and Noon.

Dated: May 9, 2016.

**D.F. Berliner,**

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

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## LIBRARY OF CONGRESS

### U.S. Copyright Office

### 37 CFR Part 202

[Docket No. 2016–3]

### Mandatory Deposit of Electronic Books and Sound Recordings Available Only Online

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Notice of inquiry.

**SUMMARY:** In 2010, the U.S. Copyright Office, acting pursuant to section 407 of title 17 and following a public rulemaking process, adopted an interim rule governing mandatory deposit of electronic works that are not available in a physical format. The interim rule refers to such works as “electronic works published in the United States and available only online” (or “online-only works”). The interim rule created a limited exception to the Register’s longstanding regulatory exemption that online-only works are not subject to mandatory deposit requirements. It also established best edition criteria and regulations as to electronic serials requested pursuant to section 407. The Library has adopted policies for the use of such materials, including limiting public access to deposited works to dedicated terminals located at the Library of Congress in Washington, DC. These policies were anticipated and discussed during the rulemaking process, but are not memorialized in the regulations.

The Library of Congress is now interested in extending the interim rule to apply to online-only books and sound recordings. Because over six years have passed since the interim rule was adopted, and because the interim rule was intended to inform a more permanent solution and rule, the Copyright Office is initiating a notice of inquiry to further guide its work in this area. The Copyright Office seeks feedback from affected communities regarding the experience with mandatory deposit of electronic serials, generally, as well as comments pertaining to the potential application of mandatory deposit to online-only books and sound recordings, specifically. Based on this feedback, the Office will solicit further written comments and/or invite stakeholder meetings before moving to a rulemaking process.

**DATES:** Written comments must be received no later than 11:59 p.m. Eastern Time on July 18, 2016.

**ADDRESSES:** For reasons of government efficiency, the Copyright Office is using