

However, in the event the market is distorted by disruption to supply or other factors, DOE may defer scheduled deliveries or consider deferral requests from awardees.

(2) An awardee seeking to defer scheduled deliveries of petroleum products to the SPR may submit a deferral request to DOE.

(b) *Deferral criteria.* DOE shall only grant a deferral request for negotiation under paragraph (c) of this section if it determines that DOE can receive a premium for the deferral and, based on DOE's deferral analysis, that at least one of the following conditions exists:

(1) DOE can reduce the cost of its petroleum products acquisition per barrel and increase the volume of petroleum products being delivered to the SPR by means of the premium barrels required by the deferral process;

(2) DOE anticipates private inventories are approaching a point where unscheduled outages may occur;

(3) There is evidence that refineries are reducing their run rates for lack of feedstock; or

(4) There is an unanticipated disruption to petroleum product supply.

(c) *Negotiating terms.*

(1) If DOE decides to negotiate a deferral of deliveries, DOE shall estimate the market value of the deferral and establish a strategy for negotiating with suppliers the minimum percentage of the market value to be taken by the Government. During these negotiations, if the deferral request was initiated by DOE, DOE may consider any reasonable, customary, and applicable costs already incurred by the supplier in the performance of a valid contract for delivery. In no event shall such consideration account for any consequential damages or lost profits suffered by the supplier as a result of such deferral.

(2) DOE shall only agree to amend the contract if the negotiation results in an agreement to give the Government a fair and reasonable share of the market value.

#### **§ 626.9 Suspension and pre-drawdown diversion.**

Where the Secretary has found that a severe energy supply interruption may be imminent, the Secretary may suspend any previously announced or contracted acquisition of any petroleum product by the SPR or injection of petroleum products into the SPR; or sell any petroleum product acquired for injection into the SPR that has not yet been injected into the SPR.

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket Number USCG-2022-0641]

RIN 1625-AA00

#### **Safety Zone; Firework Event, Willamette River, Portland, OR**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Willamette River. This action is necessary to provide for the safety of life on these navigable waters between the Marquam Bridge to Hawthorne Bridge, Portland, Oregon, during a fireworks display on the evening of September 3, 2022. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Columbia River 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 August 19, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG-2022-0641 using the Federal Decision Making Portal at <https://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 LT Sean Murphy, Waterways Management Division, Marine Safety Unit Portland, U.S. Coast Guard; telephone 503-240-9319, email [D13-SMB-MSUPortlandWWM@uscg.mil](mailto:D13-SMB-MSUPortlandWWM@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

CFR Code of Federal Regulations  
COTP Captain of the Port Columbia River  
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**

On July 19, 2022, the Oregon Symphony notified the Coast Guard that it will be conducting a fireworks display

from 9 p.m. to 9:30 p.m. on September 3, 2022. The fireworks are to be launched from a barge in the Willamette River between Marquam Bridge and Hawthorne Bridge, Portland, Oregon. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Columbia River (COTP) has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone within a 300-yard radius of the barge before, during, or after the fireworks display.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 300-yard radius of the fireworks barge before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

##### **III. Discussion of Proposed Rule**

The COTP is proposing to establish a safety zone from 8:30 p.m. to 10 p.m. on September 3, 2022. The safety zone would cover all navigable waters within a 300-yard radius of a barge in the Willamette River located between the Marquam Bridge and Hawthorne Bridge, Portland, OR. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9 p.m. to 9:30 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are 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. 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 (OMB).

This regulatory action determination is based on the size, location, and

duration, of the safety zone. The safety zone created by this proposed rule is designed to minimize its impact on navigable waters. This proposed rule will prohibit entry into certain navigable waters of the Willamette River and is not anticipated to exceed two hours in duration. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Moreover, under certain conditions vessels may still transit through the safety zone when permitted by the COTP. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone and the rule allows 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 proposed 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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email 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 call or email 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 potential effects of this proposed rule elsewhere in this preamble.

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), 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 1.5 hours that would prohibit entry within 300 yards of a fireworks barge. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. 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 protesters. Protesters are asked to call or email 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.

*Submitting comments.* We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2022–0641 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the [https://](https://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov) Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

**Personal information.** We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

#### 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 is proposing 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:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T13–0641 to read as follows:

#### § 165.T13–0641 Safety Zone; Willamette River, Portland, OR

(a) *Location.* The following area is a safety zone: All navigable waters of the Willamette River, from surface to bottom, in a 300-yard radius from the fireworks barge located between the Marquam Bridge and Hawthorne Bridge, Portland, OR.

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

*Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Columbia River (COTP) in the enforcement of the regulations in this section.

(c) *Regulations.*

(1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by calling (503) 209–2468 or the Sector Columbia River Command

Center on Channel 16 VHF–FM. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(3) The COTP will provide advanced notice of the regulated area via broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 8:30 p.m. to 10 p.m. on September 3, 2022. It will be subject to enforcement this entire period unless the COTP determines it is no longer needed, in which case the Coast Guard will inform mariners via Notice to Mariners.

Dated: July 29, 2022.

**M. Scott Jackson,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2022–0623]

RIN 1625–AA00

#### Safety Zone; Swim, Columbia River, Cascade Locks, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Columbia River. This action is necessary to provide for the safety of participants and the maritime public during a cross-channel swim on the Columbia River near Cascade Locks, Oregon, to Stevenson, Washington, on the morning of September 5, 2022. This proposed rulemaking would prohibit non-participant persons and vessels from being in the safety zone unless authorized by the Captain of the Port Columbia River 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 August 19, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG–2022–0623 using the Federal Decision Making Portal at <https://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 LT Sean Murphy, Waterways Management Division, Marine Safety Unit Portland, U.S. Coast Guard; telephone 503–240–9319, email [D13-SMB-MSUPortlandWWM@uscg.mil](mailto:D13-SMB-MSUPortlandWWM@uscg.mil).

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

On April 20, 2022, True West LLC with Visit Hood River notified the Coast Guard that the Roy Webster Cross Channel Swim, an annually recurring marine event, will be occurring at Cascade Locks to Stevenson. The event consists of a cross-channel swim from 07:30 to 10:30 a.m. on September 5, 2022. The Captain of the Port Columbia River (COTP) has determined that the potential hazards associated with the swim event would be a safety concern for anyone within the designated area of the safety zone before, during, or after the swim.

The purpose of this rulemaking is to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

#### III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 7 until 11 a.m. on September 5, 2022. The safety zone will cover all navigable waters of the Columbia River between RM 149 and RM 150 near Cascade Locks, Oregon. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 7:30 a.m. to 10:30 p.m. swim. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are 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.