

Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

\* \* \* \* \*

*Paragraph 5000 Class D airspace.*

#### AGL IL D Chicago, IL [Revoked]

Chicago, Merrill C Meigs Airport, IL  
(Lat. 41°51'32" N., long. 87°36'28" W.)

That airspace extending upward from the surface to and including 3,100 feet MSL and within a 3.8-mile radius of the Merrill C Meigs Airport, excluding that airspace within the Chicago, IL, Class B airspace area and the Chicago Midway Airport, IL, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Airport/Facility Directory.

\* \* \* \* \*

Issued in Des Plaines, Illinois on July 9, 2003.

**Nancy B. Shelton,**

*Manager, Air Traffic Division, Great Lakes Region.*

[FR Doc. 03–19166 Filed 7–25–03; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD13–03–022]

RIN 1625–AA00

#### Security and Safety Zone; Protection of Large Passenger Vessels, Portland, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In order to maintain an increased maritime security posture, the Coast Guard proposes to establish regulations for the security and safety of large passenger vessels in the navigable waters of the Portland, OR Captain of the Port zone. This proposed security and safety zone, when enforced by the Captain of the Port Portland, will provide for the regulation of vessel traffic in the vicinity of large passenger vessels in the navigable waters of the United States.

**DATES:** Comments and related material must reach the Coast Guard on or before August 27, 2003.

**ADDRESSES:** You may mail comments and related material to Commanding Officer, Marine Safety Office Portland, 6767 N. Basin Ave, Portland, OR 97217. Marine Safety Office Portland maintains the public docket [CGD13–03–022] for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Portland between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT(jg) Tad Drozdowski, c/o Captain of the Port Portland, 6767 N. Basin Ave, Portland, OR 97217 at 503–240–9370.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD13–03–022), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like

to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Portland at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

#### Background and Purpose

Hostile entities continue to operate with the intent to harm U.S. National Security. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks (67 FR 58317, Sept. 13, 2002) (continuing national emergency with respect to terrorist attacks), (67 FR 59447, Sept. 20, 2002) (continuing national emergency with respect to persons who commit, threaten to commit or support terrorism). The President also has found pursuant to law, including the Act of June 15, 1917, as amended August 9, 1950, by the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the attacks (E.O. 13,273, 67 FR 56215, Sept. 3, 2002) (security endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations).

The ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports and waterways to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide. On May 2, 2003, the Captain of the Port Portland issued a temporary final rule (TFR) (68 FR 23390, CGD13–03–012, 33 CFR 165.T13–006) establishing a large passenger vessel security and safety zone, which expires on September 12, 2003. The Coast Guard, through this proposed rule, intends to continue to assist large passenger vessels by establishing a permanent security and safety zone that when enforced by the Captain of the Port would exclude persons and vessels from the immediate vicinity of all large passenger vessels. Entry into this zone will be prohibited unless authorized by the Captain of the

Port or his designee. The Captain of the Port may be assisted by other federal, state, or local agencies.

### Discussion of Proposed Rule

This proposed rule, for security and safety concerns, would control vessel movement in a regulated area surrounding large passenger vessels. The Coast Guard received one comment regarding the scope and impact of the TFR. Specifically, the commenter noted that it would be difficult for the average waterway user to distinguish a large passenger vessel which is subject to the rule from vessels of similar size and design that are not subject to the rule. We have considered this comment in adopting the proposed rule.

The intent of the proposed rule is to protect those passenger vessels readily apparent to a reasonable waterway user as carrying passengers such as cruise ships, ferries, and excursion vessels. These vessels have been determined to be most at risk from possible hostile activities. Additionally, the master of such vessels, Coast Guard or the designated official patrol must provide verbal notification to the waterway user if they are in the vicinity of the exclusionary zone. This would eliminate confusion for waterway users.

The other idea offered by the commenter suggested establishing national standards of identifying vessels around which security zones have been established. COTP Portland has the authority to publish and enforce security zones solely in his area of responsibility. The Commandant of the Coast Guard has authority to implement national standards. Therefore, this proposal will be forwarded to our headquarters for consideration. However, the need to enforce this security zone in the COTP Portland zone is important and cannot be delayed while this proposal is under consideration.

This proposed rule would be enforced from time to time by the Captain of the Port Portland for such time as he deems necessary to prevent damage or injury to any vessel or waterfront facility, to safeguard ports, harbors, territories, or waters of the United States or to secure the observance of the rights and obligations of the United States. The Captain of the Port Portland will cause notice of the activation of this security and safety zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public, including Marine Safety Office Portland's internet web page located at <http://www.uscg.mil/d13/units/msoportland>. In addition, Marine Safety Office Portland maintains a

telephone line that is staffed 24 hours a day, 7 days a week. The public can contact Marine Safety Office Puget Sound at (503) 240-9311 to obtain information concerning enforcement of this rule. For the purpose of this regulation, a large passenger vessel means any vessel over 100 feet in length (33 meters) carrying passengers for hire including, but not limited to, cruise ships, auto ferries, passenger ferries, and excursion vessels.

All vessels within 500 yards of a large passenger vessel shall operate at the minimum speed necessary to maintain a safe course, and shall proceed as directed by the official patrol. No vessel, except a public vessel as defined in paragraph (b), is allowed within 100 yards of a large passenger vessel that is underway or at anchor, unless authorized by the official patrol or large passenger vessel master. Vessels requesting to pass within 100 yards of a large passenger vessel that is underway or at anchor shall contact the official patrol on VHF-FM channel 16 or 13. The on-scene official patrol or large passenger vessel master may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of a large passenger vessel that is underway or at anchor in order to ensure a safe passage in accordance with the Navigation Rules. Similarly, vessels at anchor may be permitted to remain at anchor within 100 yards of passing large passenger vessel. Public vessels for the purpose of this proposed rule are vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

### Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this proposed rule would restrict access to the regulated area, the effect of this proposed rule will not be significant because: (i) Individual large passenger vessel security and safety zones are limited in size; (ii) the official

on-scene patrol or large passenger vessel master may authorize access to the large passenger vessel security and safety zone; (iii) the large passenger vessel security and safety zone for any given transiting large passenger vessel will effect a given geographical location for a limited time; (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

### 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 proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of large passenger vessels in the navigable waters of the United States.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual large passenger vessel security and safety zones are limited in size; (ii) the official on-scene patrol or large passenger vessel master may authorize access to the large passenger vessel security and safety zone; (iii) the large passenger vessel security and safety zone for any given transiting large passenger vessel will effect a given geographical location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121),

we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact one of the points of contact listed under **FOR INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### 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 proposed 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

The Coast Guard recognizes the rights of Native American Tribes under the Stevens Treaties. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies to mitigate tribal concerns. Given the flexibility of this proposed rule to accommodate the special needs of mariners in the vicinity of large passenger vessels and the Coast Guard's commitment to working with the Tribes, we have determined that passenger vessel security and fishing rights protection need not be incompatible and therefore have determined that this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this proposed rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

#### 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.

#### Environment

The Coast Guard's preliminary review indicates this proposed rule is categorically excluded from further environmental documentation under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1D. The environmental analysis and Categorical Exclusion Determination will be prepared and be available in the docket for inspection and copying where indicated under **ADDRESSES**. All standard environmental measures remain in effect.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 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 § 165.1318 to read as follows:

#### § 165.1318 Security and Safety Zone Regulations, Large Passenger Vessel Protection, Portland, OR Captain of the Port Zone

(a) *Notice of enforcement or suspension of enforcement.*

The large passenger vessel security and safety zone established by this section will be enforced only upon notice by the Captain of the Port Portland. Captain of the Port Portland will cause notice of the enforcement of the large passenger vessel security and safety zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Portland will issue a Broadcast Notice to Mariners and Local Notice to Mariners notifying the public when enforcement of the large passenger vessel security and safety zone is suspended.

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

*Federal Law Enforcement Officer* means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

*Large Passenger Vessel* means any vessel over 100 feet in length (33 meters) carrying passengers for hire including, but not limited to, cruise ships, auto ferries, passenger ferries, and excursion vessels.

*Large Passenger Vessel Security and Safety Zone* is a regulated area of water, established by this section, surrounding large passenger vessels for a 500-yard radius that is necessary to provide for the security and safety of these vessels.

*Navigable waters of the United States* means those waters defined as such in 33 CFR part 2.

*Navigation Rules* means the Navigation Rules, International-Inland.

*Official Patrol* means those persons designated by the Captain of the Port to monitor a large passenger vessel security and safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone and take other actions authorized by the Captain of the Port. Persons authorized as Federal Law Enforcement Officers to enforce this section will be designated as the Official Patrol.

*Public vessel* means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

*Oregon Law Enforcement Officer* means any Oregon Peace Officer as defined in Oregon Revised Statutes section 161.015.

*Washington Law Enforcement Officer* means any General Authority Washington Peace Officer, Limited Authority Washington Peace Officer, or Specially Commissioned Washington Peace Officer as defined in Revised Code of Washington section 10.93.020.

(c) *Security and safety zone.* There is established a large passenger vessel security and safety zone extending for a 500-yard radius around all large passenger vessels in the navigable waters of the United States, in Portland, OR starting at the Columbia River Bar "C" buoy and extending eastward on the Columbia River to Kennewick, WA and upriver through Lewiston, ID on the Snake River.

(d) *Compliance.* The large passenger vessel security and safety zone established by this section remains in effect around large passenger vessels at all times, whether the large passenger vessel is underway, anchored, or moored. Upon notice of enforcement by the Captain of the Port Portland, the

Coast Guard will enforce the large passenger vessel security and safety zone in accordance with rules set out in this section. Upon notice of suspension of enforcement by the Captain of the Port Portland, all persons and vessels are authorized to enter, transit, and exit the large passenger vessel security and safety zone, consistent with the Navigation Rules.

(e) *Navigation Rules.* The Navigation Rules shall apply at all times within a large passenger vessel security and safety zone.

(f) *Restrictions based on distance from large passenger vessel.* When within a large passenger vessel security and safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the on-scene official patrol or large passenger vessel master. No vessel or person is allowed within 100 yards of a large passenger vessel that is underway or at anchor, unless authorized by the on-scene official patrol or large passenger vessel master.

(g) *Requesting authorization to operate within 100 yards of large passenger vessel.* To request authorization to operate within 100 yards of a large passenger vessel that is underway or at anchor, contact the on-scene official patrol or large passenger vessel master on VHF-FM channel 16 or 13.

(h) *Maneuver-restricted vessels.* When conditions permit, the on-scene official patrol or large passenger vessel master should:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a large passenger vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within 100 yards of a passing large passenger vessel; and

(3) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of an anchored large passenger vessel.

(i) *Stationary vessels.* When a large passenger vessel approaches within 100 yards of any vessel that is moored or anchored, the stationary vessel must stay moored or anchored while it remains within the large passenger vessel's security and safety zone unless it is either ordered by, or given permission by the Captain of the Port Portland, his designated representative or the on-scene official patrol to do otherwise.

(j) *Exemption.* Public vessels as defined in paragraph (b) of this section

are exempt from complying with paragraphs (c), (d), (f), (g), (h), and (i), of this section.

(k) *Enforcement.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. In the navigable waters of the United States to which this section applies, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to provide effective enforcement of this section in the vicinity of a large passenger vessel, any Federal Law Enforcement Officer, Oregon Law Enforcement Officer or Washington Law Enforcement Officer may enforce the rules contained in this section pursuant to 33 CFR 6.04-11. In addition, the Captain of the Port may be assisted by other federal, state or local agencies in enforcing this section.

(l) *Waiver.* The Captain of the Port Portland may waive any of the requirements of this section for any vessel or class of vessels upon finding that a vessel or class of vessels, operational conditions, or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port security, safety or environmental safety.

Dated: July 15, 2003.

**Paul D. Jewell,**

*Captain, Coast Guard, Captain of the Port, Portland, Oregon.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-7534-6]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent for partial deletion of the Rocky Mountain Arsenal National Priorities List Site from the National Priorities List; request for comments.

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**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 announces its intent to delete the Selected Perimeter Area (SPA), encompassing 4,930 acres, of the Rocky Mountain Arsenal National Priorities List Site (RMA/NPL Site) On-Post Operable Unit (OU) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes