

resulting from the 2005 amendment of the Energy Policy Act. The OAS petition is available in ADAMS under Accession No. ML17173A063.

IV. Discussion of the Petition

The petitioner believe that patient health and safety is being compromised due to licensing delays of important diagnostic and therapeutic products that utilize radioisotopes that are not listed in the appendix B table in 10 CFR part 30. The petitioner assert that when the Energy Policy Act was amended in 2005 to include discrete naturally-occurring and accelerator-produced radioactive materials (NARM) into the definition of byproduct material, that 10 CFR part 30, schedule B, exempt quantities for licensing was updated to include certain NARM isotopes. They note however that 10 CFR part 30, appendix B, "Quantities of Licensed Material Requiring Labeling," which is the driver for the decommissioning funding plan and financial assurance, was not updated. As a result, the OAS believes that state regulators are forced to apply overly burdensome financial assurance obligations or evaluate on a case-by-case basis special exemptions for new products. They feel that this results in delays in using these improved products or discourages their development.

The petitioner point out that the NRC's Advisory Committee on the Medical Uses of Isotopes evaluated the financial assurance requirements for germanium-68 generators and concluded that these requirements were too restrictive and would prevent or deter the use of promising gallium-68 diagnostic imaging agents for patients. Authorization for granting specific exemption from the decommissioning funding plan requirement for Ge-68/Ga-68 generators was developed. A rulemaking action to provide a permanent regulatory solution has been initiated; however, the petition notes that the OAS is disappointed that the rule would address only this one isotope.

Rather than issue exemptions on a case-by-case basis, the petitioner assert the more appropriate way to address the inconsistency is to amend appendix B to 10 CFR part 30 to add appropriate radionuclides and their corresponding activities. The petition states that the failure to address this inconsistency puts an undue hardship on certain licensees with little or no radiation safety benefit, discourages the development of new beneficial products, and negatively impacts patient care.

V. Request for Comment

The NRC staff is requesting public comment on the following specific questions:

1. What products or technologies, other than the germanium-68 generators cited in the petition, are being or could be negatively affected because the radioactive materials required for these products or technologies are not currently listed on the table in appendix B of 10 CFR part 30?

2. Please provide specific examples of how the current NRC regulatory framework for decommissioning financial assurance has put an undue hardship on potential license applicants. Explain how this hardship has discouraged the development of beneficial new products, or otherwise imposed unnecessarily burdensome requirements on licensees or members of the public (e.g., users of medical diagnostic or therapeutic technologies) that depend on naturally-occurring or accelerator-produced radioactive materials (NARM).

3. Given NRC's current regulatory authority over the radiological safety and security of NARM, what factors should the NRC take into account in establishing possession limits for any of these materials that should be listed in appendix B of 10 CFR part 30?

4. Does this petition raise other issues not addressed by the questions above about labelling or decommissioning financial assurance for radioactive materials? Must these issues be addressed by a rulemaking, or are there other regulatory solutions that NRC should consider?

Dated at Rockville, Maryland, this 16th day of August, 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary for the Commission.

[FR Doc. 2017-17690 Filed 8-22-17; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0731]

RIN 1625-AA00

Safety Zone; Mississippi River; New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for

certain navigable waters of the Mississippi River. This action is necessary to provide for the safety of life on these navigable waters near New Orleans, LA, during a fireworks display on October 28, 2017. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port New Orleans (COTP) 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 September 7, 2017.

ADDRESSES: You may submit comments identified by docket number USCG-2017-0731 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 Lieutenant Commander (LCDR) Howard Vacco, Sector New Orleans, at (504) 365-2281 or Howard.K.Vacco@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port New Orleans
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 17, 2017, the Coast Guard was notified of a fireworks display from 7:50 p.m. through 8:50 p.m. on October 28, 2017, to celebrate a wedding. The fireworks are to be launched from a barge in the Mississippi River at approximately MM 96.2, at New Orleans, LA. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port New Orleans (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 one-half range of the barge.

The purpose of this proposed rulemaking is to ensure the safety of vessels and the navigable waters within a one-half mile range of the fireworks barge before, during, and after 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 from 7:50 p.m. through 8:50 p.m. on October 28, 2017. The safety zone would cover all navigable waters between mile marker (MM) 96 and 96.5 on the Mississippi River, Above Head of Passes. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. 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), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size and short duration of the waterway closure, which will remain in effect for one hour for a small section of the waterway. In addition, vessel traffic seeking to transit the area may seek permission from the COTP or his designated representative to do so.

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 1 hour that would prohibit entry within one-half mile of a fireworks barge. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.ID. A Record of Environmental Consideration supporting this determination is 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 protesters. 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, visit <http://www.regulations.gov/privacyNotice>.

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

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, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T08–0731 to read as follows:

§ 165.T08–0731 Safety Zone; Mississippi River, New Orleans, LA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Mississippi River between mile markers 96 and 96.5 Above Head of Passes.

(b) *Effective period.* This rule is effective from 7:50 p.m. through 8:50 p.m. on October 28, 2017.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of

this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners of any changes in the planned schedule.

Dated: August 9, 2017.

Wayne R. Arguin,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 2017–17479 Filed 8–22–17; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 8

RIN 2900–AQ03

Eligibility for Supplemental Service-Disabled Veterans' Insurance

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations governing the Service-Disabled Veterans' Insurance (S–DVI) program in order to explain that a person who was granted S–DVI as of the date of death under is not eligible for supplemental S–DVI because the insured's total disability did not begin after the date of the insured's application for insurance and while the insurance was in force under premium-paying conditions.

DATES: Comments must be received on or before October 23, 2017.

ADDRESSES: Written comments may be submitted through www.Regulations.gov; by mail or hand-delivery to: Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026 (this

is not a toll-free telephone number). Comments should indicate that they are submitted in response to “RIN 2900–AQ03—Eligibility for Supplemental Service-Disabled Veterans' Insurance.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays). Please call (202) 461–4902 for an appointment (this is not a toll-free telephone number). In addition, comments may be viewed online through the Federal Docket Management System (FDMS) at www.Regulations.gov. **FOR FURTHER INFORMATION CONTACT:** Paul Weaver, Department of Veterans Affairs Insurance Center (310/290B), 5000 Wissahickon Avenue, Philadelphia, PA 19144, (215) 842–2000, ext. 4263 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 1922(a), a veteran “suffering from a disability or disabilities for which compensation would be payable if 10 per centum or more in degree and except for which such person would be insurable according to the standards of good health” is eligible for S–DVI up to a maximum of \$10,000 upon “application in writing made within two years from the date service-connection of such disability is determined by the Secretary and payment of premiums as provided in this subchapter.” See 38 U.S.C. 1903 (amount of insurance). Section 1922(b) of title 38, United States Code, provides in pertinent part that a veteran who qualifies for insurance under 38 U.S.C. 1922(a) but who did not apply for such insurance and who was mentally incompetent from a service-connected disability, remained mentally incompetent until the date of death, and died before the appointment of a guardian or within 2 years after the appointment of a guardian “shall be deemed to have applied for and to have been granted such insurance, as of the date of death.” See 38 U.S.C. 1922(b). VA refers to insurance provided under 38 U.S.C. 1922(b) as “gratuitous” insurance.

“Any person insured under section 1922(a) [of title 38, United States Code.] who qualifies for a waiver of [S–DVI] premiums under [38 U.S.C.] 1912 . . . is eligible” for supplemental S–DVI up to \$30,000. 38 U.S.C. 1922A(a). Section 1912(a) of title 38, United States Code, states in pertinent part:

[P]ayment of premiums on insurance may be waived during the continuous total disability of the insured . . . if such disability began . . . after the date of the