



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2014-0668]

RIN 1625-AA00

Safety Zone; City of Valdez July 4th Fireworks Display, Port Valdez; Valdez, AK

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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SUMMARY: The Coast Guard proposes to establish a permanent safety zone on the navigable waters of Port Valdez, Valdez, Alaska, in the vicinity of the Valdez Spit. The proposed safety zone is necessary to protect persons and vessels from the hazards associated with the annual City of Valdez July 4th Fireworks Display event. This rule is intended to restrict vessels from a portion of the navigable waters of Port Valdez, in the immediate vicinity of the fireworks launch platforms, before, during, and immediately after the fireworks event.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251

(3) Mail or Delivery: 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. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTATION INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Commander Jason A. Smilie, Chief of Waterways Management Division, U.S. Coast Guard Marine Safety Unit Valdez; telephone (907) 835-7223, e-mail Jason.A.Smilie@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP                    Captain of the Port  
DHS                     Department of Homeland Security  
FR                        Federal Register  
NPRM                    Notice of Proposed Rulemaking

A. 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.

1. Submitting comments

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. You may submit your comments and material online at <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, 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 telephone 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>, type the docket number USCG-2014-0668 in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8.5 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 may change the rule based on your comments.

## 2. 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>, type the docket number USCG-2014-0668 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. 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.

## 3. 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 notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### 4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the 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.

#### B. Regulatory History and Information

The Coast Guard began issuing temporary final rules establishing safety zones during the Valdez July 4th Fireworks Display. These temporary safety zones were established for each year's event beginning in 2010. The Coast Guard received no comments or concerns from the public when the temporary safety zones were in place. This Notice of Proposed Rulemaking proposes to permanently establish a safety zone of the exact same size and position as that which were established under the temporary final rules since 2010.

### C. Basis and Purpose

(a) The legal basis for the rule is the Coast Guard's authority to establish limited access areas: 33 U.S.C 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, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

(b) The purpose of this rule is to enhance the safety for spectators and mariners attending a community event that involves a relatively large fireworks display. The Coast Guard anticipates that a large number of spectators will congregate around the launch position during the display. The Captain of the Port Prince William Sound has determined that the fireworks launched near a gathering of watercrafts may pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, falling and burning debris, and vessels operating in close proximity to each other. The safety zone is necessary to provide for the safety of persons and vessels attending the event in the navigable waters in the vicinity of the fireworks launch site.

### D. Discussion of Proposed Rule

The Coast Guard proposes to establish a permanent safety zone on the navigable waters of Port Valdez, within a 200 yard radius of the location where the fireworks will be launched on the Valdez Spit for the City of Valdez July 4th Fireworks

Display. The proposed safety zone is necessary to ensure the safety of spectators and vessels from hazards associated with fireworks displays. The fireworks displays are expected to occur between 10:00 p.m. and 11:00 p.m. In order to coordinate the safe movement of vessels within the area and to ensure that the area is clear of unauthorized persons and vessels before, during, and immediately after the fireworks launch, this zone will be enforced from 9:30 p.m. to 11:30 p.m. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Prince William Sound or the designated representative. Vessels will be able to transit the surrounding area and may be authorized to transit through the proposed safety zone with the permission of the COTP or the designated representative. Before activating the zone we will notify mariners by appropriate means including but not limited to Local Notice to Mariners and Broadcast Notice to Mariners.

This rule is being proposed to provide for the safety of life on the navigable waters during the fireworks display event, and to give the public the opportunity to comment on the proposed safety zone location, size, and length of time the zone will be activated.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes

and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

### 1. 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, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard's enforcement of the proposed safety zone will be of short duration, approximately two hours. Furthermore, vessels may be authorized to transit through the proposed safety zones with the permission of the Captain of the Port Prince William Sound, Alaska.

### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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 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 transit, anchor, or fish in a portion of Port Valdez in the vicinity of the Valdez Spit during the period of enforcement of the proposed safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons; this rule will be enforced for only two hours and vessel traffic will be able to navigate safely around the proposed safety zone. Before and during the enforcement period, we will also issue maritime advisories widely available to the mariners that transit Port Valdez and Prince William Sound.

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.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory

Enforcement Fairness Act of 1996 (Public Law 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 above. 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.

#### 4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

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 determined that this rule does not have implications for Federalism.

#### 6. 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.

#### 7. 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 aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in the preamble.

#### 8. 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.

#### 9. 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.

#### 10. Protection of Children from Environmental Health Risks

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.

#### 11. 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.

#### 12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. 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 that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a permanent safety zone on the navigable waters of Port Valdez, in the vicinity of the Valdez Spit. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a 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.

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; 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; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T17-0668 to read as follows:

§ 165.T17-0668 Safety Zone; City of Valdez July 4th Fireworks, Port Valdez; Valdez, AK.

(a) Regulated area. The following area is a permanent safety zone: All navigable waters of Port Valdez within a 200-yard radius from a position of 61°07'22"N and 146°21'10"W. This includes the entrance to the Valdez small boat harbor.

(b) Effective date. This rule will be effective from 9:30 p.m. until 11:30 p.m. on July 4th of each year, or during the same timeframe on specified rain dates of July 5th through July 8th of each year.

(c) Definitions. The following definitions apply to this section:

(1) The term "designated representative" means any Coast Guard commissioned, warrant or petty officer of the U. S. Coast Guard who has been designated by the Captain of the Port (COTP), Prince William Sound, to act on his or her behalf.

(2) The term "official patrol vessel" may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP, Prince William Sound.

(d) Regulations. (1) The general regulations contained in 33 CFR

165.23, as well as the following regulations, apply.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the designated representative during periods of enforcement.

(3) All persons and vessels shall comply with the instructions of the COTP or the designated representative. Upon being hailed by a U.S. Coast Guard vessel or other official patrol vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(4) Vessel operators desiring to enter or operate within the regulated area may request permission from the COTP via VHF Channel 16 or (907) 835-7205 (Prince William Sound Vessel Traffic Center) to request permission to do so.

(5) The Coast Guard will issue a broadcast notice to mariners to advise mariners of the safety zone before and during the event.

(6) The COTP may be aided by other Federal, state, borough and local law enforcement officials in the enforcement of this section.

Dated: December 9, 2014

M. R. FRANKLIN,  
Lieutenant Commander, U.S. Coast Guard,  
Acting, Captain of the Port Prince William Sound, Alaska

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