

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[COTP Western Alaska 03-003]

RIN 1625-AA00

**Security Zone; Port of Anchorage, Knik Arm, AK**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary 1000-yard security zone in the navigable waters off the Port of Anchorage, Alaska. This security zone temporarily closes all navigable waters extending out from the Port of Anchorage. This action is necessary to protect the Port of Anchorage, vessels moored at the Port, and its personnel against sabotage or subversive acts.

**DATES:** This temporary final rule is effective from 12:01 p.m. on September 23, 2003 until 12:01 p.m. on March 23, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket (COTP Western Alaska 03-001) and are available for inspection or copying at Coast Guard Marine Safety Office Anchorage, AK between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander Robert Forgit, USCG Marine Safety Office Anchorage, at (907) 271-6700.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Port of Anchorage, Alaska recently experienced a terrorist threat of damage to the port and its personnel. We are immediately establishing this temporary security zone to protect the Port, the vessels within the Port, and its personnel from sabotage or subversive acts.

**Background and Purpose**

In light of a recent terrorist threat to the Port of Anchorage, the Coast Guard is establishing a security zone on the navigable waters off the Port of

Anchorage to safeguard the Port, the vessels within the Port, and its personnel from sabotage or subversive acts and incidents of a similar nature. This security zone prohibits movement within or entry into the specified area.

This rule establishes a temporary 1000-yard security zone in the navigable waters of Knik Arm off the Port of Anchorage, Alaska. This security zone is designed to permit the safe loading and unloading of vessels moored at the Port and to protect its personnel from possible sabotage, subversive acts or incidents of a similar nature.

**Discussion of Rule**

The Coast Guard is establishing a temporary 1000-yard security zone in the navigable waters of Knik Arm off the Port of Anchorage. Specifically, the zone includes the waters of Knik Arm that are within an area bounded by a line drawn from a point located at 61°15.14' North, 149°52.78' West, then west to a point located at 61°15.14' North, 149°53.84' West, then south to a point located at 61°14.39' North, 149°53.64' West, then east to a point located at 61°13.94' North, 149°53.55' West; thence along the shoreline back to the beginning point. All cargo vessels scheduled to moor at the Port of Anchorage and that have submitted the required Advance Notice of Arrival will be allowed to transit the zone. All tow vessels contracted, specifically Cook Inlet Tug and Barge, to assist the vessels into the Port of Anchorage, may transit the security zone when actually assisting a vessel. The limited size of the zone is designed to minimize the impact on other vessels transiting to facilities near the Port of Anchorage.

**Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12886, 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). This finding is based on the limited size of the security zone which will have minimal, if any, impact on vessels transiting the waters of Knik Arm and to facilities near the Port of Anchorage.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this 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 rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit in the vicinity of the Port of Anchorage.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Marine traffic will still be able to transit through Knik Arm during the zone's activation. Additionally, vessels with cargo to load or unload at the Port of Anchorage will not be precluded from mooring at or getting underway from the Port. Tow vessels contracted to assist vessels will not be precluded from transiting the zone to assist vessels.

**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).

**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 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

**Taking of Private Property**

This rule will 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This 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.

### Energy Effects

We have analyzed this final 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g) of the Instruction, from further environmental documentation. Under figure 2-1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List"

and a "Categorical Exclusion Determination" are not required for this rule.

### 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 amends 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.T17-017 to read as follows:

#### § 165.T17-017 Security Zone: Port of Anchorage, Knik Arm, Alaska.

(a) *Location.* The following area is a security zone: All navigable waters within 1000-yards of the Port of Anchorage. Specifically, the zone includes the waters of Knik Arm that are within an area bounded by a line drawn from a point located at 61°15.14' North, 149°52.78' West; thence west to a point located at 61°15.14' North, 149°53.84' West; thence south to a point located at 61°14.39' North, 149°53.64' West; thence east to a point located at 61°13.94' North, 149°53.55' West; thence along the shoreline back to the beginning point.

(b) *Effective period.* This section is effective from 12:01 p.m., September 23, 2003 to 12:01 p.m., March 23, 2004.

(c) *Regulations.* (1) For the purpose of this section, the general regulations contained in 33 CFR 165.33 apply to all but the following vessels in the areas described in paragraph (a):

(i) Vessels scheduled to moor and offload or load cargo at the Port of Anchorage that have provided the Coast Guard with an Advance Notice of Arrival.

(ii) Tow vessels contracted, specifically Cook Inlet Tug and Barge, to assist vessels to the dock at the Port of Anchorage.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port representative or the designated on-scene patrol personnel. These personnel are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other

means, the operator of a vessel shall proceed as directed.

Dated: September 23, 2003.

**Thomas D. Harrison,**

*Commander, Coast Guard, Acting Captain of the Port, Western Alaska.*

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BILLING CODE 4910-15-P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[Docket # OR-02-002a; FRL-7568-7]

#### Approval and Promulgation of Air Quality Implementation Plans; State of Oregon; Klamath Falls PM-10 Nonattainment Area Redesignation to Attainment and Designation of Area for Air Quality Planning Purposes

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** On November 4, 2002, the State of Oregon submitted a PM-10 maintenance plan for Klamath Falls to EPA for approval and concurrently requested that EPA redesignate the Klamath Falls nonattainment area to attainment for the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than ten micrometers (PM-10). In this action, EPA is approving the maintenance plan and redesignating the Klamath Falls PM-10 nonattainment area to attainment.

**DATES:** This direct final rule will be effective December 22, 2003, unless EPA receives adverse comments by November 20, 2003. If relevant adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Steven K. Body, Office of Air Quality, (OAQ-107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Electronic comments should be sent either to [r10.aircom@epa.gov](mailto:r10.aircom@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in the **SUPPLEMENTARY INFORMATION** section, Part VII, General Information.

Copies of the documents relevant to this action are available for public