

### FAA's Determination and Proposed Requirements of the Supplemental NPRM

The changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

### Differences Between the Supplemental NPRM and Service Information

Although the service bulletin specifies that operators may contact the manufacturer for disposition of certain repair conditions, this proposed AD would require operators to repair those conditions according to a method approved by the FAA.

Although the service bulletin describes procedures for reporting compliance to the manufacturer, this supplemental NPRM would not make such a requirement. We do not need this information from operators.

### Costs of Compliance

There are about 350 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 250 airplanes of U.S. registry. The proposed inspection would take about 1 work hour per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of this supplemental NPRM on U.S. operators is \$16,250, or \$65 per airplane.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order

13132. This proposed AD would not have 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.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this supplemental NPRM. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**Raytheon Aircraft Company:** Docket No. FAA-2005-20111; Directorate Identifier 2004-NM-154-AD.

#### Comments Due Date

- (a) The Federal Aviation Administration must receive comments on this AD action by June 3, 2005.

#### Affected ADs

- (b) None.

#### Applicability

- (c) This AD applies to Raytheon Model HS.125 series 700A airplanes, BAe.125 Series 800A airplanes, and Model Hawker 800 and Hawker 800XP airplanes; certificated in any category; equipped with Brailsford TBL-2.5 blowers; as identified in Raytheon Service Bulletin SB 24-3272, Revision 1, dated October 2000.

#### Unsafe Condition

- (d) This AD was prompted by a report indicating that a cockpit ventilation and avionics cooling system blower motor seized

up and gave off smoke due to inadequate short circuit protection on the blower motor electrical circuit. We are issuing this AD to prevent smoke and fumes in the cockpit in the event that a blower motor seizes and overheats due to excessive current draw.

### Compliance

- (e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

### Inspection and Corrective Actions

- (f) Within 600 flight hours or 6 months after the effective date of this AD, whichever occurs first, inspect to determine the current rating of the circuit breakers of certain cockpit ventilation and avionics cooling system blowers; and, before further flight, replace the circuit breakers and modify the blower wiring, as applicable; by doing all the actions in accordance with the Accomplishment Instructions of Raytheon Service Bulletin SB 24-3272, Revision 1, dated October 2000; except as provided by paragraphs (g) and (h) of this AD.

### Contacting the Manufacturer

- (g) Where the service bulletin specifies contacting the manufacturer for information if any difficulties are encountered while accomplishing the service bulletin, this AD requires you to contact the Manager, Wichita Aircraft Certification Office (ACO), FAA.

### No Reporting Requirement

- (h) Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include this requirement.

### Alternative Methods of Compliance (AMOCs)

- (i) The Manager, Wichita ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on April 29, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD13-05-007]

RIN 1625-AA87

### Security Zone: Portland Rose Festival on Willamette River

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the Portland Rose Festival on

Willamette River security zone. This regulation is enforced annually during the Portland, Oregon Rose Festival on the waters of the Willamette River between the Hawthorne and Steel Bridges. The proposed change would clarify the annual enforcement period for this regulation. This change is intended to better inform the boating public and to improve the level of safety at this event. Entry into the area established is prohibited unless authorized by the Captain of the Port.

**DATES:** Comments and related material must reach the Coast Guard on or before May 31, 2005.

**ADDRESSES:** You may mail comments and related material to U.S. Coast Guard Marine Safety Office, c/o Captain of the Port, 6767 North Basin Avenue Portland, OR 97217. Marine Safety Office Portland, Oregon, maintains the public docket [CGD13-05-007] 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, Oregon, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Tad Drozdowski, c/o Captain of the Port Portland, OR 6767 North Basin Avenue Portland, OR 97217 at (503) 240-9301.

#### **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 (CGD13-05-007), 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 they 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, Oregon, 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 later notice in the **Federal Register**.

#### **Background and Purpose**

Each year in June, the annual Portland, Oregon, Rose Festival is held on the waters of the Willamette River near Portland, Oregon. On May 29, 2003, the Coast Guard published a final rule (68 FR 31979) establishing a security zone, in 33 CFR 165.1312, for the security of naval vessels on a portion of the Willamette River during the fleet week of the Rose Festival. The security zone in 33 CFR 165.1312 is enforced each year during the event to provide for public safety by controlling the movement of vessel traffic in the regulated area. The current regulation does not accurately describe the enforcement period.

#### **Discussion of Proposed Rule**

In this proposed rule, the Coast Guard would amend 33 CFR 165.1312, "Security Zone; Portland Rose Festival on Willamette River", to require compliance with the regulation each year in June from the first Wednesday in June falling on the 4th or later through the following Monday in June. The location of the security zone would remain unchanged.

This proposed rule, for safety and security concerns, would control vessel movements in a security zone surrounding vessels participating in the annual Portland, Oregon, Rose Festival. U.S. Naval Vessels are covered under 33 CFR part 165 subpart G—Protection of Naval Vessels, however, the Portland, Oregon, Rose Festival is a major maritime event that draws many different vessels including Navy, Coast Guard, Army Corps of Engineers, and Canadian Maritime Forces. It is crucial that the same level of security be provided to all participating vessels.

Entry into this zone is prohibited unless authorized by the Captain of the Port, Portland, Oregon, or his designated representatives.

#### **Regulatory Evaluation**

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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. This expectation is based on the fact that the regulated area of the Willamette River is a small area, enforced for a short period of time, and it is established for the benefit and safety of the recreational boating public.

#### **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.

Vessels desiring to transit this area of the Willamette River may do so by scheduling their trips in the early morning or evening when the restrictions on general navigation imposed by this section would not be in effect. For these reasons, the Coast Guard certifies under 5 U.S.C. 605(b) that this change would not have a significant economic impact on a substantial number of small entities.

Therefore, 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. Comments submitted in response to this finding will be evaluated under the criteria in the "Regulatory Information" section of this preamble.

#### **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 proposed 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 rule or any policy or action of the Coast Guard.

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 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 the rule 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 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 does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

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.

#### 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.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

#### Environment

We have analyzed this proposed 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" is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

#### 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. 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. In § 165.1312 revise paragraph (d) to read as follows:

#### § 165.1312 Security Zone; Portland Rose Festival on Willamette River.

\* \* \* \* \*

(d) *Enforcement period.* This section is enforced annually in June from the first Wednesday in June falling on the 4th or later through the following Monday in June. The event will be 6 days in length and the specific dates of enforcement will be published each year in the **Federal Register**. In 2005, the zone will be enforced on Wednesday, June 8, through Monday, June 13.

Dated: April 20, 2005.

**Daniel T. Pippenger,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, Portland, OR.*

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 05-006]

RIN 1625-AA87

#### Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise the perimeter of the existing