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Acting Manager, Airspace and Rules Group.
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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0755]

RIN 1625-AA00

Safety Zone: LST-1166 Safety Zone, Southeastern Tip of Lord Island, Columbia River, Rainier, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Columbia River encompassed in a 500 foot radius surrounding the LST-1166 vessel located near the southeastern tip of Lord Island at position 46°07'18" N 123°00'51" W adjacent to the Oregon shoreline. Entry into this safety zone is prohibited during the cleanup operation unless authorized by the Captain of the Port or his designated representatives. The Captain of the Port Portland, Oregon is taking this action to ensure the safety of boaters transiting this area and the safety of the people conducting the cleanup operation of the LST-1166.

DATES: This regulation is effective from 8 a.m. on July 22, 2008 to 8 p.m. on September 30, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0755 and are available online at www.regulations.gov. They are also available for inspection or copying at two locations: the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and Coast Guard Sector Portland, 6767 N. Basin Ave., Portland, OR 97217 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BM2 Joshua Lehner, c/o Captain of the Port Portland, 6767 N. Basin Ave, Portland, OR 97217-3992, and (503) 240-9311.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the fact that the cleanup operation was only recently authorized by the federal government, earlier notice was unavailable. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of the public and the environment during the cleanup operation. The public or environment must not be exposed to the asbestos and PCB's which require removal from the vessel as well as the physical cables and lines which may surround the vessel. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. For this reason, following the normal rule making procedures in this case would be impracticable and contrary to the public.

Background and Purpose

The Coast Guard is establishing a safety zone on the waters of the Columbia River encompassed in a 500 foot radius surrounding the LST-1166 Vessel located near the southeastern tip of Lord Island on the Oregon shoreline. The safety zone is scheduled to start at 8 a.m. on July 22, 2008 to 8 p.m. on September 30, 2008. The safety zone will exclude vessels from transiting the cleanup area surrounding the LST-1166 which will consist of cables, tow lines and dive operations. This safety zone will be enforced by representatives of the Captain of the Port Portland. The Captain of the Port may be assisted by other federal, state, and local agencies.

Discussion of Rule

This temporary rule will create a safety zone to minimize the inherent dangers associated with the cleanup operation of the Vessel LST-1166. This is to allow for a safe cleanup operation of the Vessel LST-1166 to keep the public clear any hazardous material that could be associated with the operation. The dangers included in these operations are, but are not limited to, navigational hazards from small watercrafts and cleanup equipment in the waterway and any hazardous material that could be associated with the operation such as exposure to asbestos and PCB's. Passage through the safety zone would be authorized by the Captain of the Port Portland, his

designated representative on scene. The Coast Guard, through this action, intends to promote the safety of personnel and vessels in the area during these operations.

Regulatory Evaluation

This 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. The Coast Guard expects the economic impact of this temporary 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 safety zone established by this rule will restrict passage between the southern shoreline of Lord Island and the Oregon shoreline of the Columbia River. Passage through the Safety Zone will be enforced by representatives of the Captain of the Port Portland and actively managed by a representative on scene. The Captain of the Port may be assisted by other federal, state, and local agencies. This regulation is established for the benefit and safety of the public and the personnel conducting the cleanup operation. This rule will be effective from 8 a.m. on July 22, 2008 to 8 p.m. on September 30, 2008. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

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 or anchor in the portion of Newport Harbor during the time mentioned under Background and Purpose.

This safety zone will not have a significant economic impact on a substantial number of small entities due to its location. Although the safety zone

may be in place for a significant amount of time the safety zone is small in size and is located well outside of the navigational channel of the Columbia River. The vessels most likely to be impacted will be recreational boaters, small passenger vessel operators and commercial barge operators but these vessels can transit the main channel and avoid this safety zone altogether. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded, under the Instruction, 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 because it establishes a safety zone. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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. A temporary section in 165.T13–060 is added to read as follows:

§ 165.T13–060 LST–1166 Safety Zone, Southeastern Tip of Lord Island, Columbia River, Rainier, Oregon.

(a) *Safety Zone*. The following area is a designated safety zone:

(1) Near the southeastern most tip of Lord Island on the Oregon Shoreline of the Columbia River, Rainier, Oregon.

(i) *Location*: waters of the Columbia River encompassed in the 500 foot radius surrounding the vessel LST–1166 located at position 46° 07'18" N, 123°00'51" W.

(ii) *Effective time and date:* 8 a.m. on July 22, 2008 to 8 p.m. on September 30, 2008.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port. Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders and directions of the Captain of the Port or his designated representatives.

(c) Vessels wishing to request permission to enter the safety zone may contact the federal or local representatives on scene VHF Channel 16 or by calling 503-240-9311 or the Fred Devine Diving & Salvage Co. escort vessel on VHF Channel 16.

Dated: July 22, 2008

F.G. Myer,

Captain, U.S. Coast Guard, Captain of the Port Portland.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0725]

RIN 1625-AA00

Temporary Safety Zone: Red Bull Flugtag, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Red Bull Flugtag to be held on the waters of the Willamette River in the vicinity of McCall's Waterfront Park in Portland, Oregon. The safety zone will restrict vessels from entering the designated area during the marine event. This temporary rule is needed to provide for the safety of participants in the event.

DATES: This regulation is effective from 10:30 a.m. to 5 p.m. on August 2, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0725 and are available online at www.regulations.gov. They are also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday

through Friday, except Federal holidays, and Coast Guard Sector Portland, 6767 N. Basin Ave., Portland, OR 97217 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. **FOR FURTHER INFORMATION CONTACT:** BM2 Joshua Lehner, c/o Captain of the Port Portland, 6767 N. Basin Ave., Portland, OR 97217-3992, and (503) 240-9311.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The emergent and dynamic nature of the event did not allow previous notice. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of participants and spectators. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. For this reason, following the normal rule making procedures in this case would be impracticable and contrary to the public.

Background and Purpose

The Coast Guard is establishing a temporary safety zone to allow for a safe marine event. This event occurs on the Willamette River in the vicinity of McCall's Waterfront Park in Portland, Oregon and is scheduled to start at 10:30 a.m. and last until 5 p.m. on August 2, 2008. This event may result in a number of recreational vessels congregating near the marine event. The marine event poses several dangers to the participants including river currents, vessel traffic and debris on the river. Accordingly, the Safety Zone is needed to protect event participants and spectators from safety hazards associated with the event. This safety zone will be enforced by representatives of the Captain of the Port Portland. The Captain of the Port may be assisted by other federal, state, and local agencies.

Discussion of Rule

This temporary rule will create a safety zone to assist in minimizing the inherent dangers associated with the marine event. These dangers include, but are not limited to, river currents, vessel traffic and river debris. The Coast Guard, through this action, intends to promote the safety of personnel, vessels, and facilities in the area. Due to these concerns, public safety requires these regulations to provide for the safety of life on the navigable waters.

Regulatory Evaluation

This 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. The Coast Guard expects the economic impact of this temporary 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 safety zone established by this rule encompasses an area on the Willamette River near McCall's Waterfront Park in Portland, Oregon that is not a major commercial navigation or public boating area. This regulation is established for the benefit and safety of the recreational boating public, and any negative recreational boating impact is offset by the benefits of allowing the marine event. This rule will be effective from 10:30 a.m. to 5 p.m. on August 02, 2008. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

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 or anchor in a portion of the Willamette River during the time mentioned under *Background and Purpose*. This safety zone will not have a significant economic impact on a substantial number of small entities due to its short duration and small area. The only vessels likely to be impacted will be recreational boaters, small passenger vessel operators. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that this temporary rule will not have a significant economic impact on a substantial number of small entities.