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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0023]

RIN 1625-AA11

Safety Zone; Sea Otter Point, Port of Valdez, AK

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend its regulations titled, Safety Zone; City of Valdez July 4th Fireworks, Port Valdez; Valdez, AK. The City of Valdez has changed the annual firework displays from July 4th to December 31st each year. It is therefore necessary to amend the CFR to reflect the correct date of the fireworks display. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2024-0023 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice

of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rulemaking, call or email LTJG Abigail Ferrara, Waterways Management Division, U.S. Coast Guard; 907-835-7209, email Abigail.C.Ferrara@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Prince William Sound
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

The Coast Guard began issuing temporary final rules establishing safety zones during the Valdez July 4th fireworks display beginning in 2014. The Coast Guard received no comments or concerns from the public when the temporary safety zones were in place. Due to the repeating nature of the event, on February 28, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; City of Valdez July 4th Fireworks, Port Valdez; Valdez, AK (82 FR 12076). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this fireworks display. Since then, the City of Valdez has changed the firework display from July 4th to December 31st. The Coast Gurd again began issuing temporary final rules annually for the new date. Again, due to the repeating nature of the event, we are issuing this NPRM to change the date and time to reflect the correct event details.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 200-yard radius of the firework display before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to amend 33 CFR part 165.1713, titled Safety Zone; City of Valdez July 4th Fireworks, Port Valdez; Valdez, AK to reflect the actual date of the fireworks display of December 31st. The time of the safety zone would change to 7:30 P.M. to 9:00 p.m. The safety zone would still encompass all navigable waters of Port Valdez within a 200-yard radius from a position of 61°07'22" N. and 146°21'13" W. 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. This NPRM has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended

by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on extremely limited vessel traffic in the winter months, as well as the size, location, time of day, and duration of the safety zone. Furthermore, vessels may request authorization to transit through the safety zone with the permission of the COTP, Prince William Sound, Alaska. The Coast Guard will still issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

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 proposed 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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email 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 call or email 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 potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), 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 Changing the date and shortening the duration of an existing safety zone, which prohibits traffic within 200 yards of a firework display. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this

preamble. 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 call or email 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.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2024-0023 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph,

and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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 is proposing 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: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Revise § 165.1713 Safety Zone; City of Valdez July 4th Fireworks, Port Valdez; Valdez, AK. to read as follows:

§ 165.1713 Safety Zone; City of Valdez Annual Fireworks Display within the Captain of the Port, Prince William Sound Zone, Port Valdez; Valdez, AK.

(a) **Regulated area.** The following area is a safety zone: All waters of Port Valdez, from surface to bottom, within a 200-yard radius from a position of 61°07'22" N. and 146°21'13" W. These coordinates are based on the 1984 World Geodetic System (WGS 84). This includes the entrance to the Valdez small boat harbor.

(b) **Definitions.** As used in this section, *designated representative* means any Coast Guard commissioned, warrant or petty officer of the U. S. Coast Guard and a Federal, State, and local officer designated by or assisting the Captain of the Port Prince William Sound (COTP) in the enforcement of the safety zone. 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.

(c) **Regulations.** (1) The general safety zone regulations contained in subpart C of this part, 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 designated representative by

siren, radio, flashing light, or other means, the operator of the vessel shall proceed as directed.

(4) Anyone 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 COTP may be aided by other Federal, state, borough, and local law enforcement officials in the enforcement of this regulation.

(d) ***Enforcement Period.*** This section will be enforced from 7:30 p.m. until 9:00 p.m. on December 31st of each year, or during the same time frame on specified weather delay dates January 1st through January 5th each year.

Dated: May 15, 2024.

S. K. Rousseau,

Commander, U.S. Coast Guard,

Captain of the Port Prince William Sound.

[FR Doc. 2024-11044 Filed: 5/21/2024 8:45 am; Publication Date: 5/22/2024]