

current industry practices on facility interactions with port authorities, State and local law enforcement agencies, and the Coast Guard. We are also interested in any information and data about the costs associated with these approaches as well as any potential benefit. These comments may assist us in formulating policy as we consider a future rulemaking to implement Section 822.

FVA Sharing Alternatives

- Require each MTSA-regulated facility owner or operator to make a copy of the current FVA available to the cognizant Coast Guard Captain of the Port, port authority, and State and local law enforcement agencies, upon request. The owner or operator would share the FVA via electronically secured transfer. Do facilities store FVAs electronically?

Are you able to save them as an encrypted or password-protected file?

- Require each MTSA-regulated facility owner or operator to proactively provide a copy of the current FVA to the port authority and State and local law enforcement agencies at a prescribed time interval (as opposed to making copies of FVAs available to the port authorities and law enforcement upon request). The owner or operator would share the FVA via electronically secured transfer.

Are you able to encrypt or password-protect the FVA electronic copy and/or deliver it on a password-protected CD, flash drive, or other storage medium?

- Require each MTSA-regulated facility owner or operator to share the current FVA with the port authority and State and local law enforcement agencies annually at the annual exercise required under 33 CFR 105.220 or at a newly required annual FVA sharing meeting.

- Require each MTSA-regulated facility owner or operator to share the current FVA with the port authority and State and local law enforcement agencies during the regularly scheduled 5-year resubmission process of the Facility Security Plan (FSP).

- In addition to the requirement to share the current FVA, require each MTSA-regulated facility owner or operator to make the Security Measures Summary (CG-6025) available to the relevant government authorities and law enforcement agencies for review at the end of the required annual exercise or equivalent (33 CFR 105.220).

- In addition to the requirement to share the current FVA, require each MTSA-regulated facility owner or operator to update the FSP to incorporate FVA-sharing measures.

Security System Integration Alternatives

- Require each MTSA-regulated facility owner or operator to have and demonstrate via annual exercises the ability to provide manual alerts regarding a TSI to appropriate State and local law enforcement agencies and the Coast Guard.

Is 15 minutes a reasonable estimate of the additional time needed to comply with this requirement?

- Require each MTSA-regulated facility owner or operator to have and demonstrate via annual exercises the ability to provide automated alerts regarding a TSI to appropriate State and local law enforcement agencies and the Coast Guard.

Is 15 minutes a reasonable estimate of the additional time needed to comply with this requirement?

- Require each MTSA-regulated facility owner or operator to make security data feeds regarding a TSI (e.g., alerts, video feeds, alarms, etc.) available to appropriate State and local law enforcement agencies and the Coast Guard.

Do appropriate levels of technology exist at both the facility and receiving government agency to comply with this requirement, which would consist of sharing telecommunications information such as Internet addresses, phone numbers, passwords, and encryption codes?

- Require each MTSA-regulated facility owner or operator to incorporate a technological solution that integrates their electronic surveillance and communications systems with compatible systems operated or maintained by the appropriate State and local law enforcement agencies and the Coast Guard. There is a range of possible methods for integrating security systems, including Internet connectivity, dedicated telephone lines, and other forms of security system integration.

Information Requested

1. We request comments on the feasibility, costs, and benefits of each of the preliminary alternatives described above. Please be as specific as possible. For estimates of costs a break-out by specific cost element would be preferable to a lump sum. For example, provide separate estimates for the equipment, number of hours and type of worker needed to install the equipment (i.e. master electrician, labor, supervisor), number of hours and type of employee (i.e., trainer, mid-level manager) to prepare and execute training, and on-going maintenance costs. Cost estimates can be provided as ranges.

2. We request comments as to whether there are any data, literature, or studies that demonstrate the feasibility, costs, and benefits of each of the preliminary alternatives described above.

3. We request comments from MTSA-regulated facility owners and operators regarding current industry practices with respect to security system integration between the facility and State and local law enforcement agencies, the Coast Guard and, emergency responders.

4. We request comments as to whether the requirement to integrate facility security systems with those of State and local law enforcement agencies, the Coast Guard, and emergency responders should be limited to only those MTSA-regulated facilities that are identified in risk-based and other applicable types of analyses. If so, please identify the characteristics of those facilities.

5. Aside from the preliminary alternatives described above, please provide any other alternatives on preferred ways to implement the requirements in Section 822. For any such alternatives suggested, please include information and data as to the feasibility, costs, and benefits.

6. We request any additional comments from interested parties on the subject matter of this notice.

This notice is issued under authority of 5 U.S.C. 552(a), 46 U.S.C. 70102(c) and 70124.

Dated: January 25, 2013.

P.F. Thomas,

Director, Inspections and Compliance, U.S. Coast Guard.

[FR Doc. 2013-02209 Filed 1-31-13; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2012-0365]

RIN 1625-AA00

Safety Zone; Alaska Marine Highway System Port Valdez Ferry Terminal, Port Valdez; Valdez, AK

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent safety zone on the navigable waters of Port Valdez within a 200-yard radius of the Alaska Marine Highway System (AMHS) Port Valdez Ferry Terminal. The purpose of the safety zone is to restrict all vessels

except AMHS vessels from entering within 200-yards of the AMHS Port Valdez Ferry Terminal whenever an AMHS ferry is underway within 200 yards of the terminal and there is a declared Commercial Salmon Fishery Opener. This safety zone is necessary to provide for the safety of life, property and the environment during periods of vessel traffic congestion during a declared Commercial Salmon Fishery Opener.

DATES: Comments and related material must be received by the Coast Guard on or before May 2, 2013.

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 **SUPPLEMENTARY 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 email Lieutenant Commander Danielle F. Wiley, Waterways Management Division, U.S. Coast Guard Marine Safety Unit Valdez, telephone 907-835-7223, email danielle.f.wiley@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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 email 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-2012-0365] 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 8½ 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-2012-0365) 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 on or before April 11, 2013, 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

In order to prevent near miss collisions or delays in mooring during the commercial fishing openers, the Coast Guard began issuing temporary final rules to establish temporary safety zones during Commercial Salmon Fishery Openers in 2010. The Coast Guard received no comments or concerns from the public when the temporary final rules were in place.

This Notice of Proposed Rule Making would permanently establish a safety zone of the exact same size and position as that which was established under the temporary final rules.

C. Basis and Purpose

The legal basis for the proposed 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; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

A representative of the Alaska Marine Highway System requested that the Coast Guard establish a safety zone in the immediate vicinity of the AMHS Port Valdez Ferry Terminal whenever a Commercial Salmon Fishery Opener is declared, because of previous incidents of near collisions in the vicinity of the ferry terminal between AMHS ferry vessels and commercial fishing vessels. During Commercial Salmon Fishery Openers, increased vessel traffic in the vicinity of the AMHS Port Valdez Ferry Terminal adds additional congestion to the waterways and is a cause for navigational safety concerns, especially when the commercial fleet is active along the shoreline adjacent to the AMHS Port Valdez Ferry Terminal.

We believe a permanent safety zone is necessary to ensure the safety of vessels

operating in the vicinity of the AMHS Port Valdez Ferry Terminal. The Coast Guard began issuing temporary final rules to establish temporary safety zones during Commercial Salmon Fishery Openers in 2010. Because Commercial Salmon Fishery Openers are not announced until the night before the opener, these temporary final rules were issued late in the evening or at night (becoming effective the following morning) leaving very little time to thoroughly disseminate news of the safety zone to affected waterway users.

The proposed rule would ensure the safety of all vessels in the area during periods of increased vessel traffic because of the Commercial Salmon Fishery Opener. The impact of this rule on commercial and recreational traffic is expected to be minimal because the proposed safety zone will restrict access to only a small portion of the navigable waters of Port Valdez and for a short duration.

D. Discussion of Proposed Rule

The Coast Guard proposes to establish a 200-yard safety zone around the AMHS Port Valdez Ferry Terminal at position 61°07'26" N; 146°21'50" W in the navigable waters of Port Valdez. The purpose of the safety zone would be to restrict non-AMHS vessels from entering within a 200-yard radius of the AMHS Port Valdez Ferry Terminal whenever an AMHS ferry is underway within a 200-yard radius of the AMHS Terminal and there is a declared Commercial Salmon Fishery Opener that includes the navigable waters within 200 yards of the terminal. The proposed safety zone would only be enforced when an AMHS ferry is underway within 200 yards of the AMHS Port Valdez Ferry Terminal and there is a declared Commercial Salmon Fishery Opener in effect. The limited size and duration of the proposed safety zone is designed to minimize the impact on other vessels transiting the waters of Port Valdez.

The proposed rule would be enforced whenever an AMHS ferry vessel is underway within 200 yards of the AMHS Port Valdez Ferry Terminal. Enforcement of the safety zone would terminate when the ferry vessel is moored or when the vessel is more than 200 yards away from the terminal.

E. 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 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 enforcement of this proposed safety zone will be of short duration. The proposed safety zone would be enforced for a limited amount of time, only when there is a declared Commercial Salmon Fishery Opener and there is an AMHS ferry underway within 200 yards of the AMHS Port Valdez Ferry Terminal. Vessels would be able to navigate around the proposed safety zone. Furthermore, vessels may be authorized to transit through the proposed safety zone with the permission of the COTP.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. 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.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the navigable waters of Port Valdez whenever a Commercial Salmon Fishery Opener is declared and there is an AMHS ferry underway within 200 yards of the AMHS Port Valdez Ferry Terminal.

This proposed safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed safety zone would be activated, and thus subject to enforcement, only when there is an announced Commercial Salmon Fishery Opener and there is an AMHS ferry underway within 200 yards of the AMHS Port Valdez Terminal. Vessel traffic could pass safely around the proposed safety zone. Before the activation of the zone, we would issue maritime advisories widely available to users of the waterway.

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 (Pub. L. 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**, 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 proposed rule will not call for a 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 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 effects of this rule elsewhere in this 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.ID, 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 safety zone. 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, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.1712 to read as follows:

§ 165.1712 Safety Zone; Alaska Marine Highway System Port Valdez Ferry Terminal, Port Valdez; Valdez, AK.

(a) *Location.* The following area is a safety zone: All navigable waters of Port Valdez extending 200 yards in all directions from the edges of the Alaska Marine Highway System Terminal dock located in Port Valdez at 61°07'26" N and 146°21'50" W.

(b) *Enforcement period.* The rule will be enforced whenever there is an Alaska Marine Highway System Ferry vessel transiting within the area described in paragraph (a) and there is a Commercial Salmon Fishery Opener that includes the navigable waters within the safety zone. Each enforcement period will be announced by a broadcast notice to mariners when the commercial salmon fishery opener is announced.

(c) *Definition.* 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, 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.

(3) The term "AMHS vessel" means any vessel owned or operated by the Alaska Marine Highway System, including, but not limited to: M/V AURORA, M/V CHENEGA, M/V COLUMBIA, M/V FAIRWEATHER, M/V KENNICOTT, M/V LECONTE, M/V LITUYA, M/V MALASPINA, M/V MATANUSKA, M/V TAKU and M/V TUSTUMENA.

(d) Regulations.

(1) The general regulations contained in 33 CFR 165.23, as well as the following regulations, apply.

(2) No vessels, except for AMHS ferries and vessels owned or operated by AMHS will be allowed to transit the safety zone without the permission of the COTP, Prince William Sound 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 hailed vessel shall proceed as directed.

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

(5) The COTP, Prince William Sound may be aided by other Federal, state, borough and local law enforcement officials in the enforcement of this regulation. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

Dated: January 11, 2013.

Benjamin J. Hawkins,

Commander, U.S. Coast Guard, Captain of the Port, Prince William Sound.

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