

persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Sector Columbia River or a designated representative.

(d) *Enforcement period.* This safety zone as described in paragraph (a) of this section will be enforced from 7 a.m. to 7 p.m. each day from June 3, 2016, through June 5, 2016.

Dated: March 4, 2016.

**D.J. Travers,**

*Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2016-0138]

RIN 1625-AA00

**Safety Zone; Cocos Lagoon, Merizo, GU**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a safety zone for Coco's Crossing swim event in the waters of Coco's Lagoon, Guam. This event is scheduled to take place from 6 a.m. to 1 p.m. on May 29, 2015. This safety zone is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. Race participants, chase boats and organizers of the event will be exempt from the safety zone. Entry of persons or vessels into this safety zone is prohibited unless authorized by the Captain of the Port (COTP). We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before April 20, 2016.

**ADDRESSES:** You may submit comments identified by docket number USCG-2016-0138 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Chief Kristina

Gauthier, U.S. Coast Guard Sector Guam at (671) 355-4866, email [Kristina.M.Gauthier@uscg.mil](mailto:Kristina.M.Gauthier@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
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**

On February 16, 2016, the Coast Guard was notified of the intent of the Manukai Athletic Club and The Manhoben Swim Club to hold the Coco's Crossing swimming race on May 29, 2016 from 6 a.m. to 1 p.m. in Merizo. The race will be from the Merizo pier to Coco's Island and back. This safety zone is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. The Captain of the Port Guam has determined that potential hazards associated with vessels in the area would be a safety concern for participants; therefore, a 100-yard radius is established around all participants.

The purpose of this rulemaking is to ensure the safety of race participants in the navigable waters within a 100-yard radius before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

**III. Discussion of Proposed Rule**

The COTP proposes to establish a safety zone from 6 a.m. to 1 p.m. on May 29, 2016. The safety zone would cover all navigable waters within a 100-yard radius of race participants in Merizo and Coco's Lagoon. The duration of the zone is intended to ensure the safety of participants before, during, and after the scheduled 6 a.m. to 1 p.m. race. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Race participants, chase boats and organizers of the event are exempt from the safety zone. 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of the Merizo and Coco's Lagoon for 7 hours in the morning when vessel traffic in the area is low and mainly constitutes excursions to Coco's Island. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter 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 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 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 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 contact 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 effects of this rule elsewhere in this preamble.

### F. 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 (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 a safety zone lasting less than 7 hours that would prohibit entry within 200 yards of race participants. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist and 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.

### G. 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.

### 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.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include

any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

### 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 proposes to amend 33 CFR part 165 as follows:

### PART 165—SAFETY ZONE; COCOS LAGOON, MERIZO, GU

- 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T14–0138 to read as follows:

#### 165. T14–0138 Safety Zone; Cocos Lagoon, Merizo, Guam.

(a) *Location.* The following area, within the Guam Captain of the Port (COTP) Zone (See 33 CFR 3.70–15), all navigable waters within a 100-yard radius of race participants in Merizo and Cocos Lagoon. Race participants, chase boats and organizers of the event will be exempt from the safety zone.

(b) *Effective Dates.* This rule is effective from 6 a.m. through 1 p.m. on May 29, 2016 through 1 p.m.

(c) *Enforcement.* Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce this temporary safety zone.

(d) *Waiver.* The COPT may waive any of the requirements of this rule for any person, vessel or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime security,

(g) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: March 2, 2016.

**James B. Pruett,**

*Captain, U.S. Coast Guard, Captain of the Port Guam.*

[FR Doc. 2016-06294 Filed 3-18-16; 8:45 am]

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## FEDERAL MARITIME COMMISSION

**46 CFR Parts 502, 503, 515, 520, 530, 535, 540, 550, 555, and 560**

[Docket No. 16-06]

RIN 3072-AC34

### Update of Existing and Addition of New User Fees

**AGENCY:** Federal Maritime Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Federal Maritime Commission (Commission) is considering amending its current user fees and invites public comment on whether the Commission should amend its user fees. Specifically, the Commission is considering increasing fees for: Filing complaints and certain petitions; records searches, document copying, and admissions to practice; paper filing of ocean transportation intermediary (OTI) applications; filing applications for special permission; and filing agreements.

The Commission is also considering lowering fees for: Reviewing Freedom of Information Act (FOIA) requests; revising clerical errors on service contracts; revising clerical errors on non-vessel-operating common carrier (NVOCC) service agreements; and Commission services to passenger vessel operators (PVOs).

In addition, the Commission is considering repealing four existing fees for: Adding interested parties to a specific docket mailing list; the Regulated Persons Index database; database reports on Effective Carrier Agreements; and filing petitions for rulemaking. The Commission is also considering adding a new fee for requests for expedited review of an agreement filing.

**DATES:** *Comments are due on or before:* April 18, 2016.

**ADDRESSES:** You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Email:* [secretary@fmc.gov](mailto:secretary@fmc.gov). Include in the subject line: "Docket No. 16-06, Comments on Update of User Fees." Comments should be attached to the email as a Microsoft Word or text-searchable PDF document. Comments

containing confidential information should not be submitted by email.

- *Mail:* Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573-0001. *Phone:* (202) 523-5725. *Email:* [secretary@fmc.gov](mailto:secretary@fmc.gov).

- *Docket:* For access to the docket to read background documents or comments received, go to: <http://www.fmc.gov/16-06>, select Docket No. 16-06 from the drop-down list next to "Proceeding or Inquiry Number" and click the "Search" option.

#### FOR FURTHER INFORMATION CONTACT:

Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573-0001. *Phone:* (202) 523-5725. *Email:* [secretary@fmc.gov](mailto:secretary@fmc.gov).

**SUPPLEMENTARY INFORMATION:** The Commission's current user fees are based on an assessment of fiscal year 2004 costs and have not been updated since 2005.<sup>1</sup> Consequently, many of the current user fees no longer represent the Commission's actual costs for providing services. The Commission is seeking comments on possible adjustments to its user fees based on fiscal year 2015 costs assessed through a new methodology for calculating costs for services provided by the Commission.

The Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701, authorizes agencies to establish charges (user fees) for services and benefits that it provides to specific recipients. Under the IOAA, charges must be fair and based on the costs to the Government, the value of the service or thing to the recipient, the public policy or interest served, and other relevant facts. The IOAA also provides that regulations implementing user fees are subject to policies prescribed by the President, which are currently set forth in OMB Circular A-25, *User Charges* (revised July 8, 1993).

OMB Circular A-25 requires agencies to conduct a periodic reassessment of costs and, if necessary, adjust or establish new fees. Under OMB Circular A-25, fees should be established for Government-provided services that confer benefits on identifiable recipients over and above those benefits received by the general public. OMB Circular A-25 also provides that agencies should determine or estimate costs based on the best available records in the agency, and that cost computations must cover the direct and indirect costs to the agency providing the activity.

<sup>1</sup> The Commission established the fee for filing or updating OTI license applications electronically in 2007.

### Fee Assessment Methodology

Applying the guidance for assessing fees provided in OMB Circular A-25, the Commission has revised its methodology for computing fees to determine the full costs of providing services.<sup>2</sup> A detailed description of the methodology, as established by the Commission's Office of Budget and Finance, is available in the docket to this rulemaking.

The Commission has developed data on the time and cost involved in providing particular services to arrive at the updated direct and indirect labor costs for those services. As part of its assessment, the Commission utilized salaries of Full Time Equivalents (FTEs) assigned to fee-generating activities to identify the various direct and indirect costs associated with providing services. Direct labor costs include clerical and professional time expended on an activity. Indirect labor costs include labor provided by bureaus and offices that provide direct support to the fee-generating offices in their efforts to provide services, and include managerial and supervisory costs associated with providing a particular service. Other indirect costs include Government overhead costs, such as fringe benefits and other wage-related Government contributions contained in OMB Circular A-76, *Performance of Commercial Activities* (revised May 29, 2003) and office general and administrative expenses.<sup>3</sup> The sum of these indirect cost components gives an indirect cost factor that is added to the direct labor costs of an activity to arrive at the fully distributed cost.

### Proposed Fee Adjustments

The adjustments the Commission is considering would allow some user fees to remain unchanged; increase, reduce, or delete other fees; and add one new fee. The Commission is considering making upward adjustments of fees to reflect increases in salary and indirect (overhead) costs. For some services, an increase in processing or review time may account for all or part of increase

<sup>2</sup> The revised methodology also satisfies the recommendations set forth in the Commission's Office of Inspector General's report, *Review of FMC's User Fee Calculations* (May 27, 2010).

<sup>3</sup> OMB Circular A-76 lists the following indirect labor costs: leave and holidays, retirement, worker's compensation, awards, health and life insurance, and Medicare. General and administrative costs are expressed as a percentage of basic pay. These include all salaries and overhead such as rent, utilities, supplies, and equipment allocated to Commission offices that provide direct support to fee-generating offices such as the Office of the Managing Director, Office of Information Technology, Office of Human Resources, Office of Budget and Finance, and the Office of Management Services.