

Portland, 27 Pearl Street, Portland, ME 04101 between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant R. F. Pigeon, Port Operations Department, Marine Safety Office Portland at (207) 780-3251.

SUPPLEMENTARY INFORMATION:

Request for Comments

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to unpredictable water level changes in the Savannah River at the destination port and the effect of those changes on the transport's barge ability to transit in the Savannah River, the transport barge is now scheduled to arrive much earlier than the Coast Guard initially anticipated. Given these recently changed navigational conditions, the Coast Guard was unable to publish a NPRM in sufficient time before this rulemaking takes effect.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. As previously stated, recent and unpredictable changes in the water levels in the Savannah River would effect the safe transit of the transport barge from the Maine Yankee Barge Slip in Wiscasset, Maine to its final destination at the Savannah River Site Boat Dock (mile 158). Due to these unpredictable changes in the river's navigability, and the barge's arrival occurring earlier than previously scheduled, the Coast Guard finds that good cause exists for making this temporary rule effective in less than 30 days after publication in the **Federal Register**.

Background and Purpose

Beginning on approximately May 1, 2003, Duratek/Chem Nuclear, Inc., the decommissioning contractor, will load and transport a reactor pressure vessel from the Decommissioned Maine Yankee Nuclear Plant onto a transport barge at the Maine Yankee barge slip in Wiscasset, Maine for shipment to the Savannah River Site Boat Dock (mile 158). The transport barge is scheduled to arrive at the Maine Yankee barge slip on approximately April 15, 2003. Once loaded, the barge will transit the Back River, Sheepscot River and Sheepscot Bay bound for sea. The departure date for the barge is expected to be approximately May 8, 2003.

These safety zones will be needed to ensure the safety of persons, facilities,

vessels and others in the maritime community, including workers involved with the project, from the hazards associated with the handling, loading and transportation of a major component containing Class 7 hazardous waste from a decommissioned nuclear power plant onto a barge in this small cove. The Back River and Sheepscot River are narrow waterways and the tug and barge will require space to be able to maneuver safely. This moving safety zone will allow the barge adequate room to maneuver and freely transit outbound to sea with this hazardous cargo.

Dates for this project are subject to change based on conditions of navigation in the Savannah River necessary to transport the barge to its final destination.

Discussion of Rule

This rule establishes a temporary safety zone in the waters of the Back River, Montsweag Bay, within 250 yards of the transport barge moored at the Maine Yankee Barge Slip located in the cove between Bailey Point and Foxbird Island effective on the date of arrival of the barge and expiring upon the barge's departure. The tentative dates for arrival and departure are April 15, 2003, and May 8, 2003, respectively. This rule has an effective date until June 30, 2003, due to the possibility of additional changes in departure schedules.

This rule also establishes a safety zone 250 yards ahead and astern, and 100 yards aside (or to the edge of the navigable channel, whichever is less), of the transport barge during its transit outbound to sea. Entry into these safety zones will be prohibited unless authorized by the Captain of the Port, Portland, Maine.

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary. The effect of this rule will not be significant for several reasons: there will be minimal impact on the navigational channel, there is ample room to navigate

around the zone, delays, if any, will be minimal, and broadcast notifications will be made to the maritime community advising them of the boundaries of the zone. During the outbound transit vessels will be able to arrange safe passage with the tug and transport barge via VHF radio.

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 through the safety zones between the dates of April 15, 2003, and June 30, 2003. However, these safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons. There is ample room to navigate safely around the zones, delays, if any, would be minimal, and broadcast notifications will be made to the maritime community advising them of the boundaries of the zones.

Collection of Information

This rule would call 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 it 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