

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

The Coast Guard recognizes the rights of Native American Tribes under the Stevens Treaties. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies to mitigate tribal concerns. Given the flexibility of the Temporary Final Rule to accommodate the special needs of mariners in the vicinity of large passenger vessels and the Coast Guard's commitment to working with the Tribes, we have determined that passenger vessel security and fishing rights protection need not be incompatible and therefore have determined that this Temporary Final 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Temporary Final Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

### 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.

### Environment

The Coast Guard's preliminary review indicates this temporary rule is categorically excluded from further environmental documentation under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.ID. As an emergency action, the Environmental Analysis, requisite regulatory consultations, and Categorical Exclusion Determination will be prepared and submitted after establishment of this temporary passenger vessel security zone, and will be available in the docket. This temporary rule ensures the safety and security of large passenger vessels. All standard environmental measures remain in effect. The Categorical Exclusion Determination will be made available in the docket for inspection or copying where indicated under **ADDRESSES**.

### 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 pre-ambble, 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. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. From March 12, 2003, until September 12, 2003, temporary § 165.T13-006 is added to read as follows:

#### § 165.T13-006 Security and Safety Zone, Large Passenger Vessel Protection, Portland, OR

(a) The following definitions apply to this section:

*Federal Law Enforcement Officer* means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

*Large passenger vessel* means any vessel over 100 feet in length (33 meters) carrying passengers for hire including, but not limited to, cruise ships, auto ferries, passenger ferries, and excursion vessels.

*Large passenger vessel security and safety zone* is a regulated area of water,

established by this section, surrounding large passenger vessels for a 500 yard radius, that is necessary to provide for the security and safety of these vessels.

*Navigable waters of the United States* means those waters defined as such in 33 CFR part 2.

*Navigation Rules* means the Navigation Rules, International-Inland.

*Official patrol* means those persons designated by the Captain of the Port to monitor a large passenger vessel security and safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone and take other actions authorized by the Captain of the Port. Persons authorized to enforce this section are designated as the Official Patrol.

*Oregon Law Enforcement Officer* means any Oregon Peace Officer as defined in Oregon Revised Statutes § 161.015.

*Public vessel* means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

*Washington Law Enforcement Officer* means any General Authority Washington Peace Officer, Limited Authority Washington Peace Officer, or Specially Commissioned Washington Peace Officer as defined in Revised Code of Washington section 10.93.020.

(b) Security and safety zone. There is established a large passenger vessel security and safety zone extending for a 500 yard radius around all large passenger vessels located in the navigable waters of the United States, in Portland, OR beginning at the Columbia River Bar "C" buoy extending eastward on the Columbia River to Kennewick, WA and upriver through Lewiston, ID on the Snake River.

(c) The large passenger vessel security and safety zone established by this section remains in effect at all times, whether the large passenger vessel is underway, anchored, or moored.

(d) The Navigation Rules shall apply at all times within a large passenger vessel security and safety zone.

(e) All vessels within a large passenger vessel security and safety zone shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the on-scene official patrol or large passenger vessel master. No vessel or person is allowed within 100 yards of a large passenger vessel, unless authorized by the on-scene official patrol or large passenger vessel master.

(f) To request authorization to operate within 100 yards of a large passenger vessel, contact the on-scene official patrol or large passenger vessel master on VHF-FM channel 16 or 13.