

the United States; in addition, for waivers to any country or Geographic code beyond Code 941 and the cooperating country, the commodity is of a type that is not produced in or available for purchase in any country in Code 941 or the cooperating country.

\* \* \* \* \*

5. Section 228.53 is amended by revising the introductory paragraph and paragraph (a) as follows:

**§ 228.53 Suppliers of services—privately owned commercial suppliers and non-profit organizations.**

*Waiver criteria.* Any waiver must be based upon one of the criteria listed in this section. Waivers to Geographic Code 899 or Code 935 which are justified under paragraph (b) or (c) of this section may only be authorized on a case-by-case basis. A waiver may be authorized when:

(a) Services required for assistance are of a type that are not available for purchase in the United States; in addition, for waivers to any country or Geographic Code beyond Code 941 and the cooperating country, the services are of a type that are not available for purchase in any country in Code 941 or the cooperating country.

\* \* \* \* \*

Dated: May 26, 1998.

**Marcus L. Stevenson,**

*Procurement Executive.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 100

[CGD08-98-040]

RIN 2115-AE46

#### **Special Local Regulations; Cross River Swim Paducah Summerfest, Ohio River Mile 934.5 to 936.0, Paducah, KY**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** Special local regulations are being adopted for the Cross River Swim Paducah Summerfest on the Ohio River. This event will be held on Sunday, July 19, 1998, between 1:30 p.m. and 3:30 p.m. on the riverfront in Paducah, KY. These regulations are needed to provide for the safety of life on navigable waters during the event.

**DATES:** These regulations become effective at 1:30 p.m. and terminate at 3:30 p.m. on July 19, 1998.

**FOR FURTHER INFORMATION CONTACT:** LTJG Tom Boyles, Coast Guard Marine Safety Office, Paducah, Kentucky at (502) 442-1621.

**SUPPLEMENTARY INFORMATION:**

Drafting Information: The drafters of this regulation are LTJG Tom Boyles, Project Officer, Coast Guard Marine Safety Office, Paducah, Kentucky and LTJG Michele Woodruff, Project Attorney, Eighth Coast Guard District Legal Office.

#### **Regulatory History**

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication in the **Federal Register**. Following normal rulemaking procedures would have been impractical. The application to hold the event was not received with sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effect date.

#### **Background and Purpose**

The marine event requiring this regulation is the Cross River Swim Paducah Summerfest. Approximately twenty swimmers will participate in a race across the Ohio River. Various recreational boats will also be involved as each swimmer will be accompanied by a safety vessel. Spectators will be able to view the event from areas designated by the sponsor. This event is sponsored by the Paducah Summerfest.

#### **Regulatory Evaluation**

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of the order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects 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 DOT is unnecessary, as this regulation will be in effect for approximately two hours in a limited area of the Ohio River.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities.

"Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) that this rule will not have a significant effect upon a substantial number of small entities, because the regulation is in effect for approximately eighteen hours in a limited part of the Ohio River.

#### **Collection of Information**

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### **Federalism Assessment**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

#### **Environmental Assessment**

The Coast Guard has considered the environmental impact of this action consistent with section 2-1, paragraph (34)(h), Commandant Instruction M16475.1C and has determined that this rule is categorically excluded from further environmental documentation.

#### **List of Subject in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements. Waterways.

#### **Temporary Regulation**

In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, as follows:

#### **PART 100—[AMENDED]**

1. The authority citation for Part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35-T08-040 is added to read as follows:

#### **§ 100.35-T08-040 Special Local Regulation, Ohio River at Paducah, Kentucky.**

(a) *Regulated Area:* Ohio River Miles 934.5 to 936.0.

(b) *Special Local Regulation:* All persons and/or vessels not registered with the sponsors as participants or official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor

provided vessels assigned to patrol the event.

(1) No spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given; failure to do so may result in a citation.

(3) The Patrol Commander is empowered to control the movement of all vessels in the regulated area. The Patrol Commander may terminate the event at any time it is deemed necessary for the protections of life and/or property and can be reached on VHF-FM Channel 16 by using the call sign "PATCOM"

(c) Dates: This section is effective at 1:30 p.m. and terminates at 3:30 p.m. on July 19, 1998.

Dated: July 7, 1998.

**Fred J. Plute,**

*Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD11-98-005]

RIN 2115-AA97

#### **Safety/Security Zone; San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay, CA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a moving safety/security zone around vessels transporting foreign research reactor spent nuclear materials on the navigable waters of San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay, CA. The zone will extend 200 yards ahead and astern, and 100 yards to each side of each vessel carrying the nuclear materials, during transit from San Francisco Main Ship Channel buoys 7 and 8 to the Weapons Support Facility Seal Beach Detachment Concord on Suisun Bay. The zone will remain in effect while the transport vessels are moored at the Weapons Support Facility Seal Beach Detachment Concord until all nuclear materials cargo operations have been completed.

The purposes of this safety/security zone are three-fold: To ensure the safety of the participant transport vessels and crew, and of all other vessels and crew in the vicinity of the participant transport vessels; to protect the environment against potential harm; and to ensure the security of the participant transport vessels, and of the property of the United States Government contained on those vessels, against sabotage or other subversive and/or disruptive acts. No persons or vessels will be allowed to enter, operate, or anchor within this zone, except as may be authorized by Commander, Eleventh Coast Guard District, or his designated representative.

**DATES:** This rule becomes effective July 8, 1998.

#### **FOR FURTHER INFORMATION CONTACT:**

Lieutenant Commander Mark Dix, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437-3073.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

On May 7, 1998, the Coast Guard published a notice of proposed rulemaking entitled Safety/Security Zone: San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay, CA in the **Federal Register** (63 FR 25189-25191). The comment period ended July 6, 1998. The Coast Guard received no comments on the proposal. No public hearing was requested, and none was held.

Good cause exists for making this rule effective prior to publication of this Final Rule in the **Federal Register** because the shipments of spent nuclear materials necessitating promulgation of this safety/security zone may begin immediately. Consequently, shipments of spent nuclear materials might occur prior to the effective date of this regulation if the regulation does not become effective until 30 days after publication of this Final Rule in the **Federal Register**, creating hazardous, unsafe navigation conditions and serious national security concerns during the shipments.

##### **Background and Purpose**

As part of a major national security objective to further the objectives of the 1968 Treaty On Non-Proliferation of Nuclear Weapons, the United States Department of Energy (DOE) will be receiving several shipments of foreign research reactor spent nuclear fuel at the Weapons Support Facility Seal Beach Detachment Concord in Concord, CA over a period of years. As such, DOE is responsible for the shipments

necessitating promulgation of this safety/security zone.

The Coast Guard is establishing a temporary moving safety/security zone around any/all vessels transporting these foreign research reactor spent nuclear materials on behalf of DOE and the United States Government on the navigable waters of San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay, CA, and at the Weapons Support Facility Seal Beach Detachment.

The Coast Guard does not anticipate that maritime traffic will be significantly impacted by the promulgation of this safety/security zone because the transit of the transport vessel(s) is expected to be expeditious, and it has been scheduled on a day and time of historically light maritime traffic, so as to maximize safety and minimize any delay or inconvenience caused by the shipment. The purposes of this safety/security zone are three-fold: (1.) Pursuant to 33 CFR 165.23, to ensure the safety of the participant transport vessel(s) and crew, and of all other vessels and crew in the vicinity of the participant transport vessel(s) (2.) pursuant to 33 CFR 165.23, to protect the environment against potential harm; and, (3.) pursuant to 33 CFR 165.33, to ensure the security of the participant transport vessel(s), and of the property of the United States Government contained on those vessels, against sabotage or other subversive and/or disruptive acts. No persons or vessels will be allowed to enter, operate, or anchor within this moving zone during transport vessel transit, including any emergency mooring or anchoring, except as may be authorized by Commander, Eleventh Coast Guard District, or his designated representative.

##### **Discussion**

The safety/security zone will extend 200 yards ahead and astern, and 100 yards to each side of each vessel carrying the nuclear materials, during transit from San Francisco Main Ship Channel buoys 7 and 8 to the Weapons Support Facility Seal Beach Detachment Concord on Suisun Bay. Once each vessel carrying the nuclear materials is safely moored, the zone will close to encompass all waters within 100 yards of each vessel and will remain so until all nuclear materials cargo handling operations have been completed. No persons or vessels will be allowed to enter, operate, or anchor within this zone, except as may be authorized by Commander, Eleventh Coast Guard District, or his designated representative.