

**Paperwork Reduction Act**

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

**Regulatory Flexibility Act**

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

**Unfunded Mandates**

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

**List of Subjects in 30 CFR Part 914**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 17, 1999.

**Brent Wahlquist,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

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**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Parts 110, 162, and 165**

[CDG17-99-002]

RIN 2115-AF81

**Anchorage Ground; Safety Zone; Speed Limit; Tongass Narrows and Ketchikan, AK**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes changes to the speed limit in Tongass Narrows. The present speed limit does not address the needs of floatplane

traffic, may unnecessarily slow the transits of smaller vessels, and does not apply in the northern portions of Tongass Narrows where traffic congestion and wake from larger vessels has become a concern. The proposal would extend the speed limit area northward in Tongass Narrows to Channel Island, allow the take-off and landing of floatplanes, and allow smaller vessels to transit crowded areas to Tongass Narrows more quickly, thereby relieving congestion. The Coast Guard also proposes redesignation of the safety zone in Ketchikan Harbor as an anchorage ground. Vessels transiting the anchorage ground, other than those engaged in anchoring evolutions, would be required to proceed through the anchorage by the most direct route without delay or sudden course changes. The present designation of this area as a safety zone does not reflect its actual use as an anchorage for large passenger vessels. The slow or erratic operation of small vessels in the present safety zone has made it very difficult for large vessels to safely maneuver to and from anchor. The requirement that transiting vessels proceed through the anchorage directly, without delay or sudden course changes, will make the final approach, anchoring, and departure of very large passenger vessels, safer for the vessels involved.

**DATES:** Comments must reach the Coast Guard by May 10, 1999.

The public hearing will be held on March 26, 1999, at 6 p.m. (AST).

**ADDRESSES:** You may mail comments to the Commander (mo), Seventeenth Coast Guard District, P.O. Box 25517, Juneau, Alaska 99802-5517, or deliver them to the Federal Building, 709 West 9th Street, sixth floor, room 661, Juneau Alaska between 8 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The telephone number is 907-463-2242. The Seventeenth Coast Guard District, Maritime Operations Division, maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this and will be available for inspection or copying at room 66, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

The public hearing will be held at the Ted Ferry Civic Center, 888 Venetia Avenue, Ketchikan, Alaska.

**FOR FURTHER INFORMATION CONTACT:**

For information concerning this rulemaking, call Lieutenant P.W. Clark, Supervisor, U.S. Coast Guard Marine Safety Detachment, Ketchikan, AK, telephone 907-225-4496.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

The Coast Guard encourages you to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD17-99-002) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comment and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you want acknowledgement or receipt of your comments, you should enclose a stamped, self-addressed postcard or envelop.

The Coast Guard is establishing a forty five-day comment period for this proposed rule instead of the usual sixty-day comment period. The shortened comment period should be sufficient to allow the public to comment on the proposed rule. The shortened comment period is needed so that the modification to the existing rule may be in place by the beginning of the 1999 summer boating season. The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard has scheduled a public hearing for 6 p.m.(AST), March 26, 1999, at the Ted Ferry Civic Center, 888 Venetia Avenue, Ketchikan, Alaska. Persons may request an additional public hearing by writing to the Commander (To), Seventeenth Coast Guard District, at the address under **ADDRESSES**. the request should include the reasons why an additional hearing would be beneficial. It is determined that the opportunity for additional oral presentations will aid this rulemaking, the Coast Guard will hold an additional public hearing at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

During the last two years the Coast Guard and the Federal Aviation Administration have held a series of public meetings in Ketchikan, Alaska, to assess maritime traffic, congestion, safety, and wake concerns in Tongass Narrows. The individuals and groups represented at these meetings included recreational vessel operators, passenger vessel operator, commercial fishing vessel operators, waterfront facility managers, commercial freight vessel/ barge operators, commercial tank barge operators, commercial Kayak operators, floatplane operators, charter vessel operator, and local residents.

**Seven knot speed limit.** The majority of the comments received at these meetings indicated that the existing 7-knot speed limit was no longer appropriate for the current navigational situation on Tongass Narrows. A search of the National Archives and comments received indicate that the original purpose of this speed restriction was to control bank erosion and damage to rafted fishing vessels from large wakes. In the forty plus years that this speed limit has been in effect, the number and type of vessels transiting, mooring, and anchoring in Tongass Narrows has changed considerably—with congestion becoming a much greater problem. For example, on an average summer day last year, traffic on Tongass Narrows consisted of more than 500 floatplane takeoffs and landings (in August 1998 the average was 526 takeoffs and landings per day), 173 charter boat transits, 22 small passenger vessels transits, 5 large cruise ships transits with 1 or 2 at anchor, 150 fishing vessels plying their trade at 7 canneries, 4 barge/tug transits, 30 to 40 kayaks transits; and an unknown number of recreation and transient boat traffic. These numbers are predicted to increase by 3 to 4 percent during the 1999 tourist season.

Numerous comments criticized the present speed limit, noting that it is impossible for floatplanes to comply with this restriction when on the water because they must exceed this speed in order to take off and land. Comments also noted that modern, small vessels with planing hulls actually create less wake when operated at higher speeds. Numerous comments thought that permitting smaller vessels to transit more rapidly would decrease congestion by clearing vessel traffic more quickly, while actually decreasing problems with the wakes from those vessels.

Comments were also received favoring extension of the speed limit zone to the north, as far as Channel Island, while clarifying the end of the speed limit in the west channel of Tongass Narrows. The extension northward was favored because it would help reduce in an area that has become more heavily developed, with regular ferry transits and significant floatplane traffic near the airport.

**Large Vessel Anchorage.** The operators of cruise ships commented that the slow and often erratic transits of small vessels made the maneuvering and anchoring of large cruise ships very difficult in the present safety zone in Ketchikan Harbor. Although comments generally favored relaxation of the speed limit for small vessels, there was concern that increased speed, when

combined with erratic maneuvering, would actually worsen the situation for anchoring cruise ships.

#### Discussion of Proposed Rules

The proposed rule would modify the existing boundaries for the 7-knot speed limit. Currently the 7-knot speed limit applies to water traffic in the Tongass Narrows from Idaho Rock to Charcoal Point. This provides adequate protection for facilities and vessels in the southern portion of the narrows but not those located in the northern section. The current regulation also covers all types and sizes of vessels and does not make any allowances for floatplanes nor for smaller vessels that do not typically cause a large wake. As proposed, the revised rule would modify the geographical boundaries of the regulated area. The new boundaries would be: Channel Island in the north part of the narrows; Idaho Rock as the southernmost boundary for the east channel; and West Pennock Light 4 as the southernmost boundary in the west channel. The second change would be to add an exemption from the 7-knot speed limit for floatplanes during landings and takeoffs and for vessels of 26 feet or less in length.

By exempting smaller vessels and floatplanes from the speed limit, the traffic congestion in all of Tongass Narrows (including the northern section) should be eased. Without the speed limit for small vessels, they would depart from, or transit through, the congested areas more quickly. This in turn should ease congestion and reduce navigational conflicts that have arisen between slow moving small boats and cruise ships and other large waterway users. Large wakes would not become a problem because the exemption is limited to smaller vessels and because Tongass Narrows regularly experiences substantial wave action (due to the large fetch in the Narrows) that is equivalent to the wake from these smaller vessels. The speed limit is retained for vessels over 26 feet because they commonly operate in the displacement mode, in which case they generate considerable wake at higher speeds.

The proposed rule re-designates the present safety zone as an anchorage ground and requires motorized vessels to proceed directly, without delay or rapid course changes, while transiting through the anchorage area. This should allow smaller vessels to rapidly move through the area without slow or erratic maneuvers that create difficulties for large vessels using the anchorage area.

#### Regulatory Evaluation

The proposed 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 that Order. It has not been reviewed 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 proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is so because the regulation is designed to reduce present impacts on waterway users of the existing speed limit. In regards to the extension of the speed limit northward to Channel Island, operators of larger vessels stated that their present practice is to slow down upon reaching Channel Island, so the proposed change conforms to an existing practice. In combination with the speed limit exemption for floatplanes and vessels 26 feet and less in length, the overall impact should be minimal. The new requirement to proceed directly, without erratic maneuvering, through the anchorage area, is expected, in combination with relaxation of the speed limit for small vessels, to result in less congestion and quicker and safer transits for all users.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard considers whether this proposed rule, if adopted, will have significant economic impacts 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 fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard believes there will be some impact to small entities, but that it will be beneficial. This is so because the speed limit is relaxed for smaller waterway users; i.e., floatplanes and vessels 26 feet long and shorter, which eases their transit times and thus benefits these users. This group includes many small charter plane and charter fishing vessel operators. Although the Coast Guard is unsure of the economic impacts on other users, it believes such impact is generally beneficial because the combination of regulatory changes should reduce congestion and navigational conflicts

throughout the waterway and make transits safer and faster for all user groups. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If however, you think your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

#### Collection-of-Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this advance notice under the principles and criteria contained in E.O. 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered this proposal in accordance with paragraph 2.B.2.b of COMDTINST M16475.1C (National Environmental Policy Act—Implementing Procedures and Policy for Considering Environmental Impacts), and concluded that there are no circumstances that indicate a potential for significant effects. Therefore, the categorical exclusion provided in figure 2-1, paragraph 34(g) of COMDTINST M16475.1C is appropriate and no further environmental analysis or documentation is required. A “Categorical Exclusion” and an “Environmental Analysis Checklist” are available in docket for inspection or copying where indicated under ADDRESSES.

#### List of Subjects

##### 33 CFR Part 110

Anchorage grounds.

##### 33 CFR Part 162

Navigation (water), Waterways.

##### 33 CFR Part 165

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

#### Proposed Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to

amend 33 CFR Parts 110, 162, and 165 as follows:

#### PART 162—[AMENDED]

1. The authority citation for part 162 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 49 CFR 1.46.

2. Revise § 162.240(b) to read as follows:

##### § 162.240 Tongass Narrows, Alaska; Navigation.

\* \* \* \* \*

(b) No vessel of over 26 feet in length, except for floatplanes during landings and take-offs, shall exceed a speed of seven knots in the region of Tongass Narrows bounded to the north by Channel Island and to the south by Idaho Rock in the east channel of Tongass Narrows and West Penneck Light 4 in the west channel of Tongass Narrows.

\* \* \* \* \*

#### PART 165—[AMENDED]

#### PART 110—[AMENDED]

3. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 33 U.S.C. 2071; 33 CFR 1.05-1(g); 49 CFR 1.46. Section 110.1a and each section listed in it are also issued under 33 U.S.C. 1223 and 1231.

##### § 165.1705 [Redesignated as § 110.231]

4. Section 165.1705 is redesignated as § 110.231 and is revised to read as follows:

##### § 110.231 Ketchikan Harbor, Alaska, Large Passenger Vessel Anchorage.

(a) *The anchorage grounds, Ketchikan Harbor, Alaska, Large Passenger Vessel Anchorage.* The waters of Ketchikan Harbor, Ketchikan, Alaska, enclosed by the following boundary lines: A line from Thomas Basin Entrance Light “2”, to East Channel Lighted Buoy “4A”, to Penneck Island Reef Lighted Buoy “PR”, to Wreck Lighted Buoy “WR6”, then following a line bearing 064 degrees true to shore. This anchorage is effective 24 hours per day from 1 May through 30 September, annually.

(b) *The regulations.* (1) When transiting through the anchorage, all vessels using propulsion machinery shall proceed across the anchorage by the most direct route and without unnecessary delay. Sudden course changes within the anchorage are prohibited.

(2) No vessels, other than a large passenger vessel over 1600 gross tons (including ferries), may anchor within the anchorage without the express

consent of the Captain of the Port, Southeast Alaska.

#### A. Regalbuto,

*Captain, U.S. Coast Guard, Acting Commander, Seventeenth Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 201-0138b; FRL-6310-1]

### Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the California State Implementation Plan (SIP) which concerns South Coast Air Quality Management District Rule 701. The intended effect of proposing approval of this rule is to update the episode criteria and to modify the boundary between two Source Receptor Area in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.

The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by April 26, 1999.

**ADDRESSES:** Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of this rule is available for public inspection at EPA's Region 9