

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 165**

[CGD01-01-155]

RIN 2115-AA97

**Safety Zone; Vessel Launches, Bath Iron Works, Kennebec River, Bath, ME****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes a 150-yard radius safety zone around the Bath Iron Works facility dry dock in Bath, Maine to be activated when the dry dock is deployed and positioned into its dredged basin hole near the center of the Kennebec River. This safety zone is needed to protect the maritime community from the possible dangers and hazards to navigation associated with positioning a 700-foot dry dock near the center of the river to launch and recover large vessels.

**DATES:** Comments and related material must reach the Coast Guard on or before February 25, 2002.

**ADDRESSES:** You may mail comments and related material to Marine Safety Office, Portland, 103 Commercial Street, Portland, Maine 04101. The Port Operations Department maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Portland between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) W.W. Gough, Ports and Waterways Safety Branch Chief, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780-3251.

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

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD01-01-155, indicate the specific section of this document to which each comment applies, and give reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose

a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in the view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Portland at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The Bath Iron Works facility in Bath, Maine recently acquired a 700-foot dry dock. This dry dock needs to be pulled away from shore to be placed in a dredged basin near the center of the Kennebec River in order to submerge to be able to launch and recover vessels. This position in the dredged basin is just to the south and southwest of Red Nun Buoy Number "34." The Captain of the Port, Portland, Maine proposes to establish a permanent moving safety zone around the dry dock when it is being moved from its moored position at the Bath Iron Works facility to its deployed location in the dredged basin of the Kennebec River, and from its deployed location back to its mooring. The Captain of the Port, Portland, Maine also proposes to establish a permanent safety zone around the dry dock while it is in its deployed position in the waters of the Kennebec River. The safety zone would restrict entry into waters of the Kennebec River within a 150-yard radius from the dry dock. This safety zone is needed to protect the maritime community from the possible dangers and hazards to navigation associated with positioning a 700-foot dry dock near the center of the river and with launching and recovering large vessels.

**Regulatory Evaluation**

This 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. 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 Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary

for the following reasons: this safety zone would only be activated temporarily when the dry dock is relocated to its launch and recovery position and during vessel launch and recovery; the safety zone only restricts movement in a portion of the Kennebec River allowing vessels to safely navigate around the zone without delay; the maritime community will be notified of the restrictions via broadcast notice to mariners; and there will be advanced coordination of vessel traffic around the safety zone to minimize the effect on commercial vessel traffic.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons stated in the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

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.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would effect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant (Junior Grade) W.W. Gough, Ports and Waterways Safety Branch Chief, Captain of the Port, Portland, Maine at (207) 780-3251.

**Collection of Information**

This rule contains no collection of information requirements under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and have determined that this rule does not have sufficient federalism implications for Federalism under that order.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An Unfunded Mandate is a regulation that requires a state, local or tribal government or the private sector to incur costs without the Federal government's having first provided the funds to pay those costs. This rule will not impose an Unfunded Mandate.

### Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

### Protection of Children

The Coast Guard has 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

### Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is

categorically excluded from further environmental documentation.

### Energy Effects

The Coast Guard has 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### List of Subjects in 33 CFR Part 165

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

### Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

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, 160.5; 49 CFR 1.46.

2. Redesignate § 165.103 as § 165.108.

3. Add new § 165.103 to read as follows:

#### **§ 165.103 Safety Zone; vessel launches, Bath Iron Works, Kennebec River, Bath, Maine.**

(a) *Location.* The following is a safety zone: all waters of the Kennebec River within a 150-yard radius of the Bath Iron Works dry dock while it is being moved to and from its moored position at the Bath Iron Works Facility in Bath, Maine to a deployed position in the Kennebec River, and while launching or recovering vessels.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

Dated: November 26, 2001.

**M.P. O'Malley,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[DC001–1000; FRL–7121–8]

### Approval of Section 112(l) Authority for Hazardous Air Pollutants; District of Columbia; Department of Health

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the District of Columbia (the District) Department of Health's (DoH's) request for delegation of authority to implement and enforce its hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, halogenated solvent cleaning, and publicly owned treatment works, as well as the test methods, which have been adopted by reference from the Federal requirements set forth in the *Code of Federal Regulations* (CFR). This proposed approval will automatically delegate future amendments to these regulations once the District incorporates these amendments into its regulations. In addition, EPA is proposing to approve of DoH's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails DoH's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation, DoH's notification to EPA of such incorporation and DoH's submission of a delegation request letter to EPA following EPA notification of a new Federal requirement. This action pertains only to affected sources, as defined by the Clean Air Act's hazardous air pollutant program. In the Final Rules section of this **Federal Register**, EPA is approving the District of Columbia's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. 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. EPA will not institute a second comment period.