

for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Section 706.2 is amended by adding, in numerical order, the following entry for USS CARDINAL (MHC 60) to Table Four, paragraph 18:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obscured angles relative to ship's heading	
		Port	STBD
* * * * *	* * * * *	* * * * *	* * * * *
CARDINAL	MHC 60	65.0° to 75.6°	284.1° to 294.6°
* * * * *	* * * * *	* * * * *	* * * * *

Dated: April 15, 1997.

R. R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 97-11335 Filed 4-30-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13-97-003]

RIN-AE94

Puget Sound and Adjacent Waters, WA-regulated Navigation Area

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: By this direct final rule, the Coast Guard is permanently amending a local regulation governing navigation in Puget Sound and adjacent waters, Washington. This amendment corrects an administrative error which unintentionally omitted the District Commander's authority to grant waivers from the rule excluding tankers over 125,000 dead weight tons from operating in Puget Sound, Puget Sound Vessel Traffic Service's (VTS) authority to grant deviations from the requirement that vessels keep the center of the precautionary areas to port, and emergency authority for masters, pilots, and others to deviate from the requirement that vessels keep the center of the precautionary areas to port. This deviation authority was inadvertently omitted when the Vessel Traffic Service regulations were amended in 1994.

DATES: This rule is effective on July 30, 1997, unless the Coast Guard receives written adverse comments or written

notice of intent to submit adverse comments on or before June 30, 1997. If the Coast Guard receives written adverse comment or written notice of intent to submit adverse comments, the Coast Guard will publish a timely withdrawal of all or part of this direct final rule.

ADDRESSES: Comments may be mailed or delivered to U.S. Coast Guard, Thirteenth Coast Guard District, Marine Safety Division, 915 Second Avenue, room 3506, Seattle, WA 98174-1067. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

The Marine Safety Division maintains the public docket for this rule making. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant T. G. Favreau, Compliance Branch Chief, U.S. Coast Guard, Thirteenth Coast Guard District, Marine Safety Division, telephone (206) 220-7224.

SUPPLEMENTARY INFORMATION:

Request for Comments

Any comments must identify the names and address of the person submitting the comment, specify the rule making docket (CGD 13-97-003) and the specific section of this rule to which each comment applies, and give the reason for each specific comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05-55, because no adverse comments are anticipated. If no adverse comments or any written notice of intent to submit adverse comment are received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days prior to the effective date, the Coast Guard will publish a document in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish a document announcing withdrawal of all or part of this direct final rule. If adverse comments apply to only part of this rule, and it is possible to remove that part without defeating the purpose, the Coast Guard may adopt as final those parts of this rule for which no adverse comments were received. The part of this rule that was the subject of adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of adverse comments, a separate Notice of Proposed Rule Making (NPRM) will be published and a new opportunity for comment provided.

A comment is considered "adverse" if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

Background and Purpose

By this direct final rule, the Coast Guard is amending 33 CFR part 165 to

correct a drafting error which inadvertently omitted (1) the District Commander's authority to grant waivers from the rule excluding tankers over 125,000 dead weight tons from operating in Puget Sound, (2) Puget Sound Vessel Traffic Service's (VTS) authority to grant deviations from the requirement that vessels keep the center of the precautionary areas to port, and (3) emergency authority for masters, pilots, and others to deviate from the requirement that vessels keep the center of the precautionary areas to port. When the requirements of 33 CFR 161.143 and 33 CFR 161.152(b) were combined into 33 CFR 165.1303, the deviation authority previously contained in 33 CFR 161.108 and 33 CFR 161.110 was inadvertently omitted. (See CGD 90-020, 59 FR 36335, July 15, 1994.) This amendment merely reinstates that deviation authority originally granted to the Thirteenth Coast Guard District Commander and to the Puget Sound VTS.

As amended in 1994, the current regulations do not allow for tank vessels over 125,000 dead weight tons to enter Puget Sound and adjacent waters. This direct final rule permanently amends 33 CFR 165.1303 to allow the Thirteenth Coast Guard District Commander to grant waivers for such tank vessels in the regulated navigation area if the proposed deviation from the rules provides an adequate level of safety. Under this amendment, the Coast Guard expects that tank vessels in this category would be allowed to enter Puget Sound only for cleaning or repair with a tug escort.

This amendment also allows the VTS to authorize deviation from the requirements to keep the center of the precautionary areas to port when operating in a precautionary area in Puget Sound. Such deviations are occasionally needed in order to prevent collisions and groundings and to protect the navigable waters of the VTS Area from environmental harm resulting from collisions and groundings.

Finally, this amendment allows the master, pilot, and others directing the movement of vessel to deviate from the requirement to keep the center of the precautionary area to port in an emergency situation, if such emergency deviation is immediately reported to the Vessel Traffic Center.

Discussion of Rules

The Coast Guard is permanently amending 33 CFR 165.1303—Puget Sound and adjacent waters, WA-regulated navigation area. Section 165.1303 is amended by revising

paragraph (b)(2) and adding new paragraphs (c)(1), (c)(2), and (c)(3).

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 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 rule to be so minimal that full Regulatory Evaluation under paragraph 10.e of the regulatory policies and procedures of DOT is unnecessary, because an ability to deviate will not create any economic impact. This conclusion is based on the fact that this direct final rule only reinstates and clarifies what was inadvertently omitted when 33 CFR 161.108 was merged into 33 CFR 165.1303. It also provides the potential for greater flexibility for the operation of tank vessels in Puget Sound.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rule making is required. "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.

Reinstatement of this section will have no economic impact on small entities because it merely restores the deviation authority originally in place for operation of tank vessels larger than 125,000 deadweight tons in a regulatory navigation area and allows for greater flexibility in vessel operations in the VTS Area. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this change will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not

have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.e.34(g) of Commandant Instruction M1675.1B (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. Section 2.B.2.e.34(g) of that instruction requires an Environmental Analysis Checklist and a Categorical Exclusion Determination to be prepared for regulatory activity of this type. Both the Environmental Analysis Checklist and the Categorical Exclusion Determination are 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), Reports and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR 165.1303 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; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; and 49 CFR 1.46.

2. In § 165.1303, paragraph (b)(2) is revised and paragraph (c) is added to read as follows:

§ 165.1303 Puget Sound and adjacent waters, WA-regulated navigation area.

* * * * *

(b) * * *

(2) Commander, Thirteenth Coast Guard District may, upon written request, issue an authorization to deviate from paragraph (b)(1) of this section if it is determined that such deviation provides an adequate level of safety. Any application for authorization must state the need and fully describe the proposed procedure.

(c) *Precautionary Area Regulations.*

(1) A vessel in a precautionary area which is depicted on National Oceanic and Atmospheric Administration (NOAA) nautical charts, except precautionary "RB" (a circular area of 2,500 yards radius centered at 48°26'24" N., 122°45'12" W.), must keep the center of the precautionary area to port.

Note: The center of precautionary area "RB" is not marked by a buoy.

(2) The Puget Sound Vessel Traffic Service (PSVTS) may, upon verbal

request, authorize a onetime deviation from paragraph (c)(1) of this section for a voyage, or part of a voyage, if the proposed deviation provides a level of safety equivalent to or beyond that provided by the required procedure. The deviation request must be made well in advance to allow the requesting vessel and the Vessel Traffic Center (VTC) sufficient time to assess the safety of the proposed deviation. Discussions between the requesting vessel and the VTC should include, but are not limited to, information on the vessel handling characteristics, traffic density, radar contacts, and environmental conditions.

(3) In an emergency, the master, pilot, or person directing the movement of the vessel may deviate from paragraph (c)(1) of this section to the extent necessary to avoid endangering persons, property, or the environment, and shall report the deviation to the VTC as soon as possible.

Dated: April 14, 1997.

J. David Spade,

*Rear Admiral, U.S. Coast Guard Commander,
13th Coast Guard District.*

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Parts 1 and 8

[Docket No. OST-96-1427]

RIN: 2105-AC51

Classified Information

AGENCY: Office of the Secretary, DOT

ACTION: Final rule.

SUMMARY: DOT revises its regulations regarding classification and declassification of, and access to, classified information, and delegates to the Assistant Secretary for Administration authority to ensure compliance within DOT with the regulations and the underlying Executive Orders. This action is taken in response to the President's Regulatory Reinvention Initiative and in order to implement recent Executive Orders.

DATES: This rule takes effect June 2, 1997.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C-10, Department of Transportation, Washington, DC 20590, telephone (202) 366-9156, FAX (202) 366-9170.

SUPPLEMENTARY INFORMATION: In 1995, the President of the United States issued two Executive Orders making

substantial revisions to the rules under which agencies of the Executive Branch, such as DOT, manage information that requires special treatment in the interest of national security. Briefly stated, Executive Order 12958 of April 17, 1995, Classified National Security Information, requires that less information be classified; and Executive Order 12968 of August 2, 1995, Access to Classified Information, requires agencies to provide administrative review of decisions to deny access to classified information. This amendment seeks to implement both Orders. To foster uniform administration within DOT, authority to ensure compliance is being delegated to the Assistant Secretary for Administration.

Public comment was invited (61 FR 3886; July 1, 1996), but none was received. The proposal is being promulgated without substantive change.

Analysis of regulatory impacts. This amendment is not a "significant regulatory action" within the meaning of Executive Order 12866. It is also not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this amendment will not have a significant economic impact on a substantial number of small entities.

This amendment does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the amendment does not contain any collection of information requirements, requiring review under the Paperwork Reduction Act of 1980.

List of Subjects

49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies), Transportation Department.

49 CFR Part 8

Classified information. In accordance with the above, DOT amends 49 CFR, as follows:

PART 1 [AMENDED]

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

Authority: 49 U.S.C. 322.

2. In § 1.59, a new paragraph (e) is added to read as follows:

§ 1.59 Delegations to the Assistant Secretary for Administration.

* * * * *

(e) * * *

(9) Ensure Department-wide compliance with Executive Orders 10450, 12829, 12958, 12968, and related regulations and issuances.

* * * * *

3. Part 8 is revised, to read as follows:

PART 8—CLASSIFIED INFORMATION: CLASSIFICATION/ DECLASSIFICATION/ACCESS

Subpart A—General

Sec.

8.1 Scope.

8.3 Applicability.

8.5 Definitions.

8.7 Spheres of responsibility.

Subpart B—Classification/Declassification of Information

8.9 Information Security Review Committee.

8.11 Authority to classify information.

8.13 Authority to downgrade or declassify.

8.15 Mandatory review for classification.

8.17 Classification challenges.

8.19 Procedures for submitting and processing requests for classification reviews.

8.21 Burden of proof.

8.23 Classified information transferred to the Department of Transportation.

Subpart C—Access to Information

8.25 Personnel Security Review Board.

8.27 Public availability of declassified information.

8.29 Access by historical researchers and former Presidential appointees.

8.31 Industrial security.

Authority: E. O. 10450, 3 CFR, 1949-1953 Comp., p. 936; E. O. 12829, 3 CFR, 1993 Comp., p. 570; E. O. 12958, 3 CFR, 1995 Comp., p. 333; E. O. 12968, 3 CFR, 1995 Comp., p. 391.

Subpart A—General

§ 8.1 Scope.

This part sets forth procedures for the classification, declassification, and availability of information that must be protected in the interest of national security, in implementation of Executive Order 12958 of April 17, 1995, "Classified National Security Information;" and for the review of decisions to revoke, or not to issue, national security information clearances, or to deny access to