(3) *Examples.* The following examples illustrate the rules of paragraph (a)(1) of this section:

Examples 1 through 5. [Reserved]. For further guidance, see § 1.1441–7T(a)(3) *Examples 1 through 5.*

Example 6. [Reserved]. For further guidance, see § 1.1441–7T(a)(3) *Example 6.*

* * * * *

■ **Par. 15.** Section 1.1441–7T is added to read as follows:

§ 1.1441–7T General provisions relating to withholding agents (temporary).

(a)(1) [Reserved]. For further guidance, see § 1.1441–7(a)(1).

(2) *Withholding agent with respect to dividend equivalents.* Each person that is a party to any contract or arrangement that provides for the payment of a dividend equivalent, as defined in section 871(m), shall be treated as having control and custody of such payment.

(3) *Examples.* The following examples illustrate the rules of paragraphs (a)(1) and (a)(2) of this section:

Example 1 through *Example 5* [Reserved]. For further guidance, see § 1.1441–7(a)(3), *Example 1* through *Example 5.*

Example 6. FC, a foreign corporation, enters into a notional principal contract (NPC) with Bank X, a bank organized in the United States. The NPC is a specified NPC for purposes of section 871(m). FC is the long party to the contract and Bank X is the short party. The NPC references a specified number of shares of dividend-paying common stock issued by a domestic corporation. As the long party, FC receives payments from Bank X based on any appreciation in the value of the common stock and dividends paid with respect to the common stock. As the short party, Bank X receives payment from FC based on any depreciation in the value of the common stock and a payment based on LIBOR. Bank X is a withholding agent because Bank X is deemed to have control and custody of a dividend equivalent as a party to the NPC. If FC's tax liability under section 881 has not been satisfied in full by Bank X as withholding agent, FC is required to file a return on Form 1120–F (U.S. Income Tax Return of a Foreign Corporation).

(b)(1) through (g) [Reserved]. For further guidance, see § 1.1441–7(b)(1) through (g).

(h) *Effective/applicability date.* This section applies on or after January 23, 2012.

(i) *Expiration date.* The applicability of this section expires on January 16, 2015.

■ **Par. 16.** Section 1.1461–1 is amended by:

■ 1. Redesignating paragraphs (c)(2)(i)(L) and (c)(2)(i)(M) as (c)(2)(i)(M) and (c)(2)(i)(N), respectively.

■ 3. Adding a new paragraph (c)(2)(i)(L). The addition reads as follows:

§ 1.1461–1 Payment and returns of tax withheld.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(L) [Reserved]. For further guidance, see § 1.1461–1T(c)(2)(L).

* * * * *

■ **Par. 17.** Section 1.1461–1T is added as follows:

§ 1.1461–1T Payment and returns of tax withheld (temporary).

(a) through (c)(2)(i)(K) [Reserved]. For further guidance, see § 1.1461–1(a) through (c)(2)(i)(K).

(L) Dividend equivalents as defined in section 871(m) and the regulations thereunder;

(c)(2)(i)(M) through (i) [Reserved]. For further guidance, see § 1.1461–1(c)(2)(i)(M) through (i).

(j) *Effective/applicability date.* This section applies on or after January 23, 2012.

(k) *Expiration date.* The applicability of this section expires on January 16, 2015.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: January 3, 2012.

Emily S. McMahon,

Acting Assistant Secretary of the Treasury, Tax Policy.

[FR Doc. 2012–1234 Filed 1–19–12; 11:15 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0532]

RIN 1625–AA00

Safety Zone; Export Grain Terminal (EGT), Columbia River, Longview, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule; request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone around the Export Grain Terminal located on the Columbia River in Longview, WA. This safety zone extends to waters of the Columbia River approximately between the navigable channel and the Export Grain Terminal in Longview, WA. This safety zone is being implemented to ensure that protest activities associated with the opening of the Export Grain Terminal to maritime traffic does not result in hazardous navigation conditions in the area of the terminal's piers and wharves.

DATES: This rule is effective from 12:01 a.m. on January 23, 2012 until 12:01 a.m. on April 1, 2012. Comments must be received on or before March 1, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0532 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0532 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email BM1 Sylvestre Suga, Waterways Management Division, Coast Guard Marine Safety Unit Portland; telephone (503) 240–9319, email *Sylvestre.G.Suga@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because to do so would be contrary to public interest because delayed promulgation may result in injury or damage to the maritime public, vessel crews, the vessels themselves, and law enforcement personnel from protest activities that could occur prior to conclusion of a notice and comment period.

On September 8, 2011, a large protest occurred at the Export Grain Terminal

(EGT) in which over 200 protestors were arrested for criminal offenses including assault. These protest activities resulted in damage to rail cars and the cargo they were carrying. The Longview local International Longshore and Warehouse Union (ILWU) has also been subject to fines for contempt of court for engaging in activity that violated a temporary restraining order. Subsequent protest activities aimed at blocking rail access to EGT on September 21, 2011 led to further arrests.

These protest activities arose from a labor dispute between the ILWU, the Port of Longview, and EGT. The dispute is ongoing and picketing activity occurs daily at the EGT facility in Longview, WA. EGT has not yet opened for vessel traffic; however, as recently as November 5, 2011, the president of the ILWU's Local 21, has threatened that protest activities will be mounted when the first vessel arrives to load at EGT's facility.

The schedule of vessel arrivals at EGT is controlled by a number of factors over which the Coast Guard has no control. Additionally, these vessels may be arriving at EGT from foreign ports. Consequently, it is impracticable for grain-shipment vessel arrival schedules to be changed or delayed in order to accommodate a notice of proposed rulemaking and subsequent comment period.

Due to past protest events, threats of similar protest activity in the future, and the significant difficulty and impracticality of changing vessel arrival schedules, the Coast Guard finds it is contrary to the public interest to delay implementation of this safety zone during a notice and comment period. Postponing the promulgation creates a very likely risk that protest activities will threaten safe navigation and the safety of persons and property on the Columbia and Snake rivers when vessels begin arriving at EGT, Longview, WA.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because to do otherwise would be contrary to the public interest since the protest activities associated with EGT are unpredictable and potentially volatile and may result in injury to persons and property. Delaying the effective date until 30 days after publication may mean that grain-shipment vessels will have arrived or departed the Columbia and Snake Rivers before the end of a 30-day period. This delay would eliminate the safety zone's effectiveness and usefulness in protecting persons, property, and the safe navigation of maritime traffic during the transit of grain-shipment vessels that may arrive or depart before 30 days have elapsed.

Although the Coast Guard has good cause to issue this temporary rule without first publishing a proposed rule, you are invited to submit post-promulgation comments and related material regarding this rule through March 1, 2012. All comments will be reviewed as they are received. Your comments will assist us in drafting future rules should they be necessary, and may result in changes to this temporary interim rule before it expires. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) for their Docket Management Facility to process online submissions to Coast Guard dockets. You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov.*

Background and Purpose

The ILWU, the Port of Longview, WA, and EGT have been engaged in a labor dispute related to the newly-constructed facility. In addition to picketing, ILWU members have engaged in protest activities that have resulted in personal injury and property damage. In particular, a large-scale protest on September 8, 2011 led to arrests for criminal offenses. Additionally, protesters blocked the arrival of the first rail delivery of cargo to the facility. Although the focus of these protests was ashore, there were some waterborne protest activities on the waters adjacent to the EGT piers. The area in which this waterborne protest activity occurred is covered by this safety zone. Although there was no inherent hazard posed by protest vessels in this area before the facility opened for maritime traffic, similar activity may be hazardous for both those protesting and commercial vessel traffic once the terminal begins receiving vessels.

The labor dispute continues, as do the protest efforts. As recently as November 5, 2011, the president of the ILWU's Local 21 threatened that protest activities, similar to those that occurred upon the arrival of the first rail shipment, will be mounted when the first vessel arrives to load at EGT's facility. Once EGT opens for vessel traffic, grain-shipment vessels will be transiting the Columbia and Snake Rivers with cargos of various grain products bound for and departing from EGT at Longview, WA. Based on the past violent protest activities and the ILWU's stated intent to interfere with the inaugural vessel arrival at EGT, Longview, WA, the Coast Guard has determined that a temporary safety zone is required in the area between the shoreline and the navigable channel where the EGT piers and wharves are located.

This safety zone is being implemented to help ensure the safe navigation of maritime traffic in the area around EGT's piers and wharves on the Columbia River and that vessels bound for EGT are able to moor there safely. This safety zone applies equally to all waterway users and is intended to allow maximal use of the waterway consistent with safe navigation and to ensure that protestors are not injured by deep-draft vessels with maneuvering characteristics with which protesters afloat may be unfamiliar.

Discussion of Rule

This rule establishes a temporary safety zone around the Export Grain Terminal located on the Columbia River at the Port of Longview, WA. The safety zone is enclosed by three lines and the shoreline: line one starting on the shoreline at 45–06′01″ N/122–56′25″ W then heading 250 yards offshore to 46–05′55″ N/122–56′30″ W then heading up river 825 yards to 46–05′46″ N/122–56′00″ W then heading 300 yards to the shoreline ending at 46–05′54″ N/122–55′53″ W. Geographically this rule will cover all waters of the Columbia River between the navigable channel and the Export Grain Terminal in Longview, WA. No person or vessel may enter or remain in the safety zone unless authorized by the Captain of the Port, Columbia River or his designated representatives.

This rule is effective from 12:01 a.m. on January 23, 2012 until 12:01 a.m. on April 1, 2012.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under

section 6(a)(3) of Executive Order 12866. 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 Homeland Security (DHS). Although this rule will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The safety zone is limited in size; (ii) the official on-scene patrol may authorize access to the safety zone; (iii) the safety zone will only be effective for a limited geographical location over a limited duration; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises 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 certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities some of which may be small entities: The owners and operators of vessels intending to operate in the area covered by the safety zone created in this rule.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) The safety zone is limited in size; (ii) the official on-scene patrol may authorize access to the safety zone; (iii) the safety zone will only be effective for a limited geographical location over a limited duration; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–(888) 734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

We believe that this rule and the process by which it was drafted adhere to the federalism principles outlined in Executive Order 13132. The Coast Guard has coordinated with the officials from the states of Oregon and Washington in drafting this rule. By allowing state enforcement of this rule, it is in accord with paragraph (h) of section 2 of the Executive Order, which encourages recognition of responsibility of localities and their sub-units to pursue objectives through their own means. This rule puts no obligation on state or municipal governments, but simply allows for their participation in enforcement activities.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not cause 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 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

This 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.

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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket 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 preamble, 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; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13–201 to read as follows:

§ 165.T13–201 Safety Zone; Export Grain Terminal (EGT), Columbia River, Longview, WA.

(a) *Definitions.* As used in this section:

(1) *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.

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

(3) *Navigation Rules* means the Navigation Rules, International-Inland.

(4) *Official Patrol* means those persons designated by the Captain of the Port to monitor a grain-shipment vessel 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. Federal Law Enforcement Officers authorized to enforce this section are designated as the Official Patrol.

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

(6) *Oregon Law Enforcement Officer* means any Oregon Peace Officer as defined in Oregon Revised Statutes section 161.015.

(7) *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) *Location.* The following area is a safety zone: All navigable waters of the United States within the Columbia River Captain of the Port Zone enclosed by three lines and the shoreline: Line one starting on the shoreline at 45–06′01″ N/122–56′25″ W then heading 250 yards offshore to 46–05′55″ N/122–56′30″ W then heading up river 825 yards to 46–05′46″ N/122–56′00″ W then heading 300 yards to the shoreline ending at 46–05′54″ N/122–55′53″ W. Geographically this rule will cover all waters of the Columbia River between the navigable channel and the Export Grain Terminal in Longview, WA.

(c) *Effective Period.* The safety zone created in this section will be in effect from 12:01 a.m. on January 23, 2012 until 12:01 a.m. on April 1, 2012. It will be activated for enforcement as described in paragraph (d) of this section.

(d) *Enforcement Periods.* The Captain of the Port Columbia River will cause notice of the enforcement of this safety zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public as practicable, in accordance with 33 CFR 165.7. Such means of notification may include, but are not limited to, Broadcast Notices to Mariners or Local Notices to Mariners. The Captain of the Port Columbia River will issue a Broadcast Notice to Mariners and Local Notice to Mariners notifying the public when enforcement of this safety zone is suspended. Upon notice of enforcement by the Captain of the Port Columbia River, the Coast Guard will enforce this safety zone in accordance with rules set out in this section. Upon notice of suspension of enforcement by the Captain of the Port Columbia River, all persons and vessels are authorized to enter, transit, and exit the grain-shipment vessel safety zone, consistent with the Navigation Rules.

(e) *Regulation.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Columbia River, the official patrol, or other designated representatives of the Captain of the Port.

(2) To request authorization to enter or operate within this safety zone contact the on-scene official patrol on VHF–FM channel 16 or 13. Authorization will be granted based on the necessity of access and consistent with safe navigation.

(3) Vessels authorized to enter or operate within this 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. The Navigation Rules shall apply at all times within this safety zone.

(f) *Exemption.* Public vessels as defined in paragraph (a) of this section are exempt from complying with paragraph (e) of this section.

(g) *Enforcement.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. In the navigable waters of the United States to which this section applies, when immediate action is required and representatives of the Coast Guard are not present or are not present in sufficient force to provide effective enforcement of this section, any Federal Law Enforcement Officer, Oregon Law Enforcement Officer, or Washington Law Enforcement Officer may enforce the rules contained in this section pursuant to 46 U.S.C. 70118. In addition, the Captain of the Port may be assisted by other federal, state or local agencies in enforcing this section.

(h) *Waiver.* The Captain of the Port Columbia River may waive any of the requirements of this section for any vessel or class of vessels upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port safety or environmental safety.

Dated: January 6, 2012.

B. C. Jones,

Captain, U. S. Coast Guard, Captain of the Port, Columbia River.

[FR Doc. 2012–1170 Filed 1–20–12; 8:45 am]

BILLING CODE 9110–04–P