



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

Docket Number USCG-2012-0822

RIN 1625-AA00

Safety Zone; Coast Guard Exercise, Hood Canal, Washington

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone around vessels involved in a Coast Guard Ready for Operations exercise in Hood Canal, WA that will take place between Oct 16, 2012 and Oct 18, 2012. A safety zone is necessary to ensure the safety of the maritime public during the exercise and will do so by prohibiting any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port (COTP) or his Designated Representative.

DATES: This rule is effective from 4:00 a.m. Oct 16, 2012 until 11:59 p.m. on Oct 18, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2012-0822. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on

the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 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 rule, call or e-mail ENS Nathaniel P. Clinger; Waterways Management Division, Coast Guard Sector Puget Sound; Coast Guard; telephone 206-217-6045, e-mail SectorPugetSoundWWM@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final 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 it would be impracticable, since the event requiring the establishment of this safety zone would be over before a comment period would end. The vessels involved in the Coast Guard Ready for Operations exercise have an important and urgent need to perform this training in order to be ready to protect U.S. persons, assets, and waters; it would be impracticable to publish an NPRM before the date of the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. For reasons described above, publication of an NPRM would be impracticable. The vessels involved in this Coast Guard exercise have an important and urgent need to perform this training in order to be ready to protect U.S. persons, assets, and waters; and it is not possible to publish an NPRM before the date of the event.

B. Basis and Purpose

The Coast Guard will be conducting a Ready for Operations (RFO) exercise in the northern part of Hood Canal, WA. During the exercise, tactical vessels will be maneuvering through the Hood Canal from the entrance of Dabob Bay to Foul Weather Bluff. This exercise will include fast moving surface vessels, smoke machines, and pyrotechnics. Blank ammunition, flares and LA51 warning munitions will be used during the exercise. A safety zone is necessary to ensure the safety of the maritime public and

vessels participating in the exercise by preventing collisions between exercising vessels and the maritime public, and by keeping the maritime public a safe distance away from potentially startling or disorienting smoke, bright flashes, and loud noises.

C. Discussion of the Rule

The temporary safety zone established by this rule will prohibit any person or vessel from entering or remaining within 500 yards of any vessel involved in the Coast Guard Ready for Operations exercise. Members of the maritime public will be able to identify participating vessels as those flying the Coast Guard Ensign. The COTP may also be assisted in the enforcement of the zone by other federal, state, or local agencies.

D. Regulatory Analyses

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

1. 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 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard bases this finding on the

fact that the safety zone will be in place for a limited period of time and vessel traffic will be able to transit through the zone from the COTP, Puget Sound or his Designated Representative.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 will affect the following entities, some of which may be small entities; the owners and operators of vessels intending to operate in the waters covered by the safety zone while it is in effect. The rule will not have a significant economic impact on a substantial number of small entities because the safety zone will be in place for a limited period of time and maritime traffic will still be able to transit around the safety zone. Maritime traffic may also request permission to transit through the zone from the COTP, Puget Sound or his Designated Representative.

3. 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 rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

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.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities

among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined 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 involves the establishment of a safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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. 1226, 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.T13-228 to read as follows:

§ 165.T13-228 Safety Zone; Coast Guard Exercise, Hood Canal, Washington.

(a) Location. The following area is a safety zone: All waters encompassed within 500 yards of any vessel that is involved in the Coast Guard Ready for Operations exercise while such vessel is transiting Hood Canal, WA between Foul Weather Bluff and the entrance to Dabob Bay. Vessels involved will be various sizes and can be identified as those flying the Coast Guard Ensign.

(b) Regulations. In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person may enter or remain in the safety zone created in this rule unless authorized by the Captain

of the Port or his Designated Representative. See 33 CFR Part 165, Subpart C, for additional information and requirements. Vessel operators wishing to enter the zone during the enforcement period must request permission for entry by contacting the on-scene patrol commander on VHF channel 13 or 16, or the Sector Puget Sound Joint Harbor Operations Center at (206) 217-6001.

(c) Enforcement Period. This rule will be enforced on 4:00 a.m. Oct 16, 2012 until 11:59 p.m. on Oct, 18, 2012 unless canceled sooner by the Captain of the Port.

DATED: September 12, 2012.

S. J. Ferguson
Captain, U.S. Coast Guard
Captain of the Port, Puget Sound

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