



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2013-0384]

RIN 1625-AA00

Safety Zones; Multiple Firework Displays in Captain of the Port, Puget Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing safety zones in Holmes Harbor, Elliot Bay Pier 90, and Southeast of Alki Point Light (approx. 1500 yds.) for various summer fireworks displays. The safety zones are necessary to help ensure the safety of the maritime public during the displays and will do so by prohibiting all persons and vessels from entering the safety zones unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from 5 p.m. on July 3, 2013, until 1 a.m. on July 21, 2013. This rule will be enforced on the dates and times listed in the SUPPLEMENTARY INFORMATION section.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2013-0384]. 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, Coast Guard Sector Puget Sound, Waterways Management Division; telephone 206-217-6045, e-mail SectorPugetSoundWWM@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
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 is impracticable. The Coast Guard did not receive finalized details about these events until it was too late to undertake an NPRM. These safety zones are necessary to protect spectators and participants from the hazards associated with fireworks displays.

For the same reasons as noted earlier, 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. Any delay in the effective date of this rule would be impracticable and contrary to the public interest because immediate action is necessary to provide for the safety of life and property on the navigable waters.

#### B. Basis and Purpose

The legal basis for the proposed rule is 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; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish safety zones.

Fireworks displays create hazardous conditions for the maritime public because of the large number of vessels that congregate near the displays as well as the noise, falling debris, and explosions that occur during the event. The establishment of a safety zone around displays helps to ensure the safety of the maritime public by prohibiting all persons and vessels from coming too close to the fireworks display and the associated hazards.

#### C. Discussion of the Final Rule

This rule establishes three safety zones for the following firework displays: Celebrate America Festival on July 3, 2013, in Holmes Harbor near Freeland, WA; Invictus Christening on July 6, 2013 in Elliot Bay, Pier 90; and Tuxedo and Tennis Shoes Event on July 20, 2013, near Alki Point Light. All persons and vessels will be prohibited from entering the safety zones during the dates and times they are effective unless authorized by the Captain of the Port or his Designated Representative.

#### 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. This rule is not a significant regulatory action because it creates safety zones that are minimal in size and short in duration.

## 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 or operators of vessels intending to transit through the established safety zones during the times of enforcement. This rule will not have a significant economic impact on a substantial number of

small entities because the temporary safety zones are minimal in size and short in duration, maritime traffic will be able to transit around them and may be permitted to transit them with permission from the Captain of the Port 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 safety zones. 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.

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. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T13-247 to read as follows:

§ 165.T13-247 Safety Zones; Multiple Firework Displays in Captain of the Port, Puget Sound Zone

(a) Location. The following areas are designated as safety zones:

(1) Celebrate America Festival, Holmes Harbor, Freeland, WA:

All waters encompassed within a 200 yard radius around position 48° 01'2.89"N, 122° 31'51.98"W.

(2) Invictus Christening, Elliot Bay, Pier 90, Seattle, WA: All waters encompassed within a 300 yard radius around position 47° 37'18.96"N, 122° 22'49.26"W.

(3) Tuxedo and Tennis Shoes Event, SE of Alki Point Light, Seattle, WA: All waters encompassed within a 250 yard radius

around position 47° 33'54"N, 122° 24'43.2"W.

(b) Regulations. In accordance with the general regulations in 33 CFR part 165, Subpart C, no person or vessel may enter or remain in the safety zone created by this section without the permission of the Captain of the Port or his designated representative. Designated representatives are Coast Guard Personnel authorized by the Captain of the Port to grant persons or vessels permission to enter or remain in the safety zone created by this section. See 33 CFR part 165, Subpart C, for additional information and requirements.

(c) Enforcement Period. The safety zones created by this section will be enforced as follows:

(1) Celebrate America Festival, Holmes Harbor, Freeland, WA: 5 p.m. on July 3, 2013, until 1 a.m. on July 4, 2013.

(2) Invictus Christening, Elliot Bay, Pier 90, Seattle, WA: 5 p.m. on July 6, 2013, until 1 a.m. on July 7, 2013.

(3) Tuxedo and Tennis Shoes Event, SE of Alki Point Light, Seattle, WA: 5 p.m. on July 20, 2013, until 1 a.m. on July 21, 2013.

DATED: June 1, 2013

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

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Date: 06/27/2013]