

Guard notifies the public that enforcement of the zone in specified sections is temporarily suspended. Mariners need not obtain permission in accordance with the procedure described in paragraph (d)(2) of this section to enter a zone section in which enforcement is temporarily suspended. At all other times, mariners must obtain permission in accordance with the procedure described in paragraph (d)(2) before entering any of those sections.

(3) The COTP will provide notice of suspended enforcement by means appropriate to effect the widest publicity, including broadcast notice to mariners, publication in the local notice to mariners, and posting the schedule of restricted access periods by date, location and duration at <http://www.scisland.org>.

(d) *Regulations.* (1) The general regulations governing safety zones found in 33 CFR 165.23 apply to the safety zone described in paragraph (a) of this section.

(2) Mariners requesting permission to transit through any section of the zone may request authorization to do so from the Fleet Area Control and Surveillance Facility (FACSFAC) San Diego by either calling 619-545-4742 or establishing a VHF bridge to bridge radio connection on Channel 16. Immediately upon completing transit, the vessel operator must promptly notify the FACSFAC of safe passage through the safety zone. Failure to expeditiously notify FACSFAC of passage through the safety zone will result in a determination by the Navy that the vessel is still in the safety zone, thereby restricting the use of the area for naval operations. If the Navy determines that facilitating safe transit through the zone negatively impacts range operations, the Navy will cease this practice and enforce the safety zones in these two areas without exception.

(3) All persons and vessels must comply with the instructions of the U.S. Navy, Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Navy or U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel must proceed as directed.

(5) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone described in paragraph (a) of this section by the U.S. Navy and local law enforcement agencies.

Dated: April 22, 2010.

**T. H. Farris,**

*Captain, U.S. Coast Guard, Captain of the Port San Diego.*

[FR Doc. 2010-12063 Filed 5-19-10; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0389]

RIN 1625-AA00

#### **Safety Zone; Washington State Department of Transportation Ferries Division Marine Rescue Response (M2R) Full-Scale Exercise for a Mass Rescue Incident (MRI)**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Washington State Department of Transportation Ferries Division (WSF) is conducting a Marine Rescue Response (M2R) full-scale exercise in Port Madison. This training exercise will simulate a mass rescue incident (MRI) and will involve an abandon ship scenario with multiple response vessels. This temporary safety zone is necessary to ensure the safety of the participating ferries, rescue vessels, and the maritime public during the exercise by prohibiting any vessel operators from entering or remaining within a 500-yard radius of the participating ferries unless authorized by the Captain of the Port, Puget Sound or Designated Representative.

**DATES:** This rule is effective from 8 a.m. until 11:59 p.m. on 25 May 2010, unless cancelled sooner by the Captain of the Port.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0389 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0389 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 e-mail Ensign Rebecca E. McCann, Sector Seattle, Waterways Management Division, Coast Guard;

telephone 206-217-6088, e-mail [Rebecca.E.McCann@uscg.mil](mailto:Rebecca.E.McCann@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 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 immediate action is necessary to ensure the safety of life and property on navigable waters.

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**. Delaying the effective date would be contrary to the public interest because hazards associated with large scale training exercises could lead to severe injury, fatalities and/or destruction of public property. Therefore immediate action is necessary to ensure safety of the public and of participants in the WSF M2R exercise.

##### **Basis and Purpose**

The WSF is hosting a M2R full scale exercise which will simulate a MRI to provide training in specific emergency response procedures. The exercise will test WSF procedures, and establish protocols with the response organization specific to ferries in the Puget Sound area. This temporary safety zone will mitigate navigation and safety concerns that may arise from the exercise by restricting the area and keeping any transiting vessels from interfering.

##### **Discussion of Rule**

The Coast Guard is establishing a temporary safety zone within Port Madison, Washington. This safety zone is established to prohibit any vessel operator from entering or remaining within 500 yards of the ferries participating in the WSF M2R exercise, unless authorized by the Captain of the Port, Puget Sound or Designated Representative. The simulation involves one large ferry dead in the water (DIW),

being assisted by another large ferry and will temporarily affect vessel traffic. The zone will be effective between 8 a.m. and 11:59 p.m. on May 26, 2010.

The Captain of the Port may be assisted in the enforcement of the zone by other federal, state, or local agencies.

### 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, 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.

Although this safety zone will restrict access to the area, the effect of the rule will not be significant 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 zone. Additionally, maritime traffic may request permission to transit through the zone from the Captain of the Port, Puget Sound or Designated Representative.

### 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 will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to operate in Port Madison, Washington between 8 a.m. and 11:59 p.m. on 25 May 2010. The rule will not have a significant economic impact on a substantial number of small entities, because the safety zone is short in duration and maritime traffic will be able to transit around the safety zone. Maritime traffic may also request permission to transit through the zone from the Captain of the

Port, Puget Sound or Designated Representative.

### 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 have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### 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.ID, 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 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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 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.T13-144 to read as follows:

#### § 165.T13-144 Safety Zone; Washington State Department of Transportation Ferries Division Marine Rescue Response (M2R) Full-Scale Exercise for a Mass Rescue Incident (MRI).

(a) *Location.* All waters encompassed within 500 yards of the Washington State Ferries involved in the M2R exercise in Port Madison, WA on 25 May 2010.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 165, subpart C, no vessel operator may enter or remain in the safety zone without the permission of the Captain of the Port or Designated Representative. The Captain of the Port may be assisted

by other Federal, State, or local agencies with the enforcement of the safety zone.

(c) *Authorization.* All vessel operators who desire to enter the safety zone must obtain permission from the Captain of the Port or Designated Representative by contacting the Coast Guard Sector Seattle Joint Harbor Operations Center (JHOC) on VHF Ch 16 or via telephone at (206) 217-6001. Vessel operators granted permission to enter the zone will be escorted by the on-scene Coast Guard patrol craft until they are outside of the safety zone.

(d) *Enforcement Period.* This rule is effective from 8 a.m. until 11:59 p.m. on 25 May 2010, unless canceled sooner by the Captain of the Port.

Dated: May 7, 2010.

**S. W. Bornemann,**

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

[FR Doc. 2010-12062 Filed 5-19-10; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-1057]

RIN 1625-AA87

#### Security Zone; Escorted U.S. Navy Submarines in Sector Seattle Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a moving security zone around any U.S. Navy submarine that is operating in the Sector Seattle Captain of the Port Zone, which includes the Puget Sound and coastal waters of the State of Washington, and is being escorted by the Coast Guard. The security zone is necessary to help ensure the security of the submarines, their Coast Guard security escorts, and the maritime public in general. The security zone will do so by prohibiting all persons and vessels from coming within 1000 yards of an escorted submarine unless authorized by the Coast Guard patrol commander.

**DATES:** This rule is effective May 20, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-1057 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-1057 in the "Keyword" box, and then clicking "Search." This material is 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 rule, call or e-mail LT Matthew N. Jones, Staff Attorney, Thirteenth Coast Guard District; telephone 206-220-7155, e-mail [Matthew.N.Jones@uscg.mil](mailto:Matthew.N.Jones@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:**

#### Regulatory Information

On January 13, 2010, we published an interim rule entitled "Security Zone; Escorted U.S. Navy Submarines in Sector Seattle Captain of the Port Zone" in the **Federal Register** (75 FR 1709). We received one comment on the proposed rule that was actually posted to the docket of a related rule. No one requested a public meeting and none was held.

#### Regulatory Information

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** because waiting 30 days would be contrary to the public interest since U.S. Navy submarine operations in the Sector Seattle Captain of the Port Zone are ongoing, making the security zone created by this rule immediately necessary to help ensure the security of the submarines, their Coast Guard security escorts, and the maritime public in general.

**Background and Purpose**

U.S. Navy submarines frequently operate in the Sector Seattle Captain of the Port Zone as defined in 33 CFR 3.65-10, which includes the Puget Sound and coastal waters of the State of Washington. Due to the numerous security concerns involved with submarine operations near shore, the Coast Guard frequently provides security escorts of submarines when operating in that area. Security escorts of this type require the Coast Guard personnel on-scene to make quick judgments about the intent of vessels operating in close proximity to the submarines and decide, occasionally with little information about the vessels