

Dated: June 2, 2010.

David M. Frank,  
Bridge Administrator.

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BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-1096]

#### Safety Zones: Fireworks Displays in the Captain of the Port Portland Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce several safety zones for fireworks displays being held in the Captain of the Port Portland Zone this summer. The dates and times that the zones will be enforced are listed below. This action is necessary to help ensure the safety of the maritime public during the fireworks displays. During the enforcement period for each respective safety zone, no persons or vessels will be allowed to enter or remain in the zone unless authorized by the Captain of the Port or his designated representative.

**DATES:** The regulations in 33 CFR Section 165.1315 will be enforced from May 1, 2010 through September 30, 2010 as specifically noted in the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail MST1 Jaime Sayers, Waterways Management Division, Coast Guard Sector Portland; telephone 503-240-9319, e-mail [Jaime.A.Sayers@uscg.mil](mailto:Jaime.A.Sayers@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the following safety zones codified in 33 CFR 165.1315 during the following dates and times:

(1) Portland Rose Festival Fireworks Display, Portland OR: May 28, 2010 from 8:30 p.m. until 10:30 p.m.

(2) Cedco Inc. Fireworks Display, North Bend, OR: July 3, 2010 from 9:45 p.m. through 10:50 p.m. If the event is delayed by inclement weather, the safety zone will also be enforced on July 4, 2010 from 9:45 p.m. through 10:50 p.m.

(3) Astoria 4th of July Fireworks, Astoria, OR: July 4, 2010 from 8:30 p.m. through 11:30 p.m.

(4) Oregon Food Bank Blues Festival Fireworks, Portland, OR: July 4, 2010 from 8:30 p.m. through 11:30 p.m.

(5) Florence Chamber 4th of July Fireworks Display, Florence, OR: July 4, 2010 from 9 p.m. through 11 p.m.

(6) Oaks Park July 4th Celebration, Portland, OR: July 4, 2010 from 9 p.m. 11 p.m.

(7) Rainier Days Fireworks Celebration, Rainier, OR: July 10, 2010 from 9 p.m. through 11 p.m.

(8) Milwaukie Centennial Fireworks Display, Milwaukie, OR: July 24, 2010 from 9 p.m. through 11 p.m.

(9) Splash Aberdeen Waterfront Festival, Aberdeen, WA: July 4, 2010 from 9 p.m. through 11 p.m.

(10) Arlington Chamber of Commerce Fireworks Display, Arlington, OR: July 4, 2010 from approximately 8:30 p.m. to approximately 11:30 p.m.

(11) East County 4th of July Fireworks, Gresham, OR: July 4, 2010 from approximately 8:30 p.m. to approximately 11:30 p.m.

(12) Port of Cascade Locks July 5th Fireworks Display, Cascade Locks, OR: July 4, 2010 from approximately 8:30 p.m. to approximately 11:30 p.m.

(13) Astoria Regatta Association Fireworks Display, Astoria, OR: August 14, 2010 9:30 p.m. through 11:30 p.m.

(14) City of Washougal July 4th Fireworks Display, Washougal, WA: July 4, 2010 at approximately 8:30 p.m. to approximately 11:30 p.m.

(15) Waverly Country Club 4th of July Fireworks Display, Milwaukie, OR: July 4, 2010 at approximately 8:30 p.m. to 11:30 p.m.

Under the provisions of 33 CFR 165.23, no person may enter or remain in these safety zones unless authorized by the Captain of the Port or his designated representative. Also in accordance with 33 CFR Section 165.23, no person may bring into, cause to be brought into, or allow to remain in these safety zones any vehicle, vessel, or object unless authorized by the Captain of the Port or his designated representative.

This notice is issued under authority of 33 CFR 165.1315 and 5 U.S.C. 552(a).

Dated: May 5, 2010.

F.G. Myer,

Captain, U.S. Coast Guard, Captain of the Port, Portland.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0073]

RIN 1625-AA87

#### Safety and Security Zones; Tall Ships Challenge 2010, Great Lakes, Cleveland, OH, Bay City, MI, Duluth, MN, Green Bay, WI, Sturgeon Bay, WI, Chicago, IL, Erie, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety and security zones around each tall ship visiting the Great Lakes during the Tall Ships Challenge 2010 race series. These safety and security zones will restrict vessel traffic in the vicinity of each tall ship in the navigable waters of the United States. The Coast Guard is taking this action to safeguard participants and spectators from the hazards associated with the limited maneuverability of these tall ships and to ensure public safety during tall ships events.

**DATES:** This rule is effective from 12:01 a.m. on June 23, 2010 until 12:01 a.m. on September 13, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0073 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0073 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 temporary rule, call or e-mail LT Yamaris Barril, Inspections, Prevention Department, Ninth Coast Guard District, Cleveland, OH, telephone (216) 902-6343, e-mail [Yamaris.D.Barril@uscg.mil](mailto:Yamaris.D.Barril@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

On April 12, 2010, the Coast Guard published a notice of proposed rule making (NPRM) entitled Safety and Security Zones; Tall Ships Challenge

2010, Great Lakes, Cleveland, OH, Bay City, MI, Duluth, MN, Green Bay, WI, Sturgeon Bay, WI, Chicago, IL, Erie, PA in the **Federal Register** (75 FR 18451). The Coast Guard received 0 public submissions commenting on the proposed rule. No public meeting was requested, and none was held.

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 this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this operation and immediate action is necessary to prevent possible loss of life or property from the dangers that are associated with Tall Ship operations.

#### **Basis and Purpose**

During the Tall Ships Challenge 2010, tall ships will be participating in parades and then mooring in the harbors of Cleveland, OH; Bay City, MI; Duluth, MN; Green Bay, WI; Sturgeon Bay, WI; Chicago, IL; and Erie, PA. At 12:01 a.m. on June 23, 2010, a safety and security zone will be established around each tall ship participating in these events. These safety and security zones will move with the tall ships as they travel throughout the Great Lakes. The safety and security zones will terminate at 12:01 a.m. on September 13, 2010.

These temporary safety and security zones are necessary to protect the tall ships from potential harm and to protect the public from the hazards associated with the limited maneuverability of these sailing ships. Due to the high profile nature and extensive publicity associated with this event, each Captain of the Port (COTP) expects a large number of spectators in confined areas adjacent to and on Lake Erie, Saginaw Bay, Lake Huron, Duluth Harbor, Lake Superior, Green Bay, Sturgeon Bay, and Lake Michigan. The combination of large numbers of recreational boaters, congested waterways, boaters crossing commercially transited waterways and limited maneuverability of the tall ships could easily result in serious injuries or fatalities. Therefore, the Coast Guard will enforce a safety and security zone around each ship to ensure the safety of both participants and spectators in these areas.

#### **Discussion of Comments and Changes**

The Coast Guard received 0 public submissions commenting on this rule.

#### **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. We conclude that this proposed rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. This determination is based on the following: The safety and security zone around each tall ship will be relatively small. Because the safety and security zones will move with the tall ships course through the Great Lakes, the zones will exist for only a minimal time in any one particular geographical area. Thus, the restrictions on vessel movement within any particular geographical area of the Great Lakes is expected to be minimal. Under certain conditions, moreover, vessels may still transit through a safety and security zone when permitted by the Captain of the Port.

The Coast Guard received 0 public submissions commenting on the proposed rule. There have been no changes made to the rule as proposed.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses and 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in an area of water in which a participating tall ship is transiting, anchored, or moored between 12:01 a.m. on June 23, 2010 and 12:01 a.m. on September 13, 2010. Each zone will be relatively small, and vessels may still

transit through a zone with permission from the official on-scene patrol.

The Coast Guard received 0 public submissions commenting on the impact to small entities by this rule. There have been no changes made to the rule as proposed.

#### **Assistance for Small Entities**

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

#### **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. The Coast Guard received 0 public submissions commenting on the proposed rule.

#### **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 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. The Coast Guard received 0 public submissions commenting on the proposed rule. There have been no changes made to the rule as proposed.

#### **Taking of Private Property**

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The Coast Guard received 0 public submissions commenting on the proposed rule. There have been no changes made to the rule as proposed.

### 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. The Coast Guard received 0 public submissions commenting on the proposed rule. There have been no changes made to the rule as proposed.

### 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. The Coast Guard received 0 public submissions commenting on the proposed rule. There have been no changes made to the rule as proposed.

### 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. The Coast Guard received 0 public submissions commenting on the proposed rule. There have been no changes made to the rule as proposed.

### 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. The Coast Guard received 0 public submissions commenting on the proposed rule. There have been no changes made to the rule as proposed.

### 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. The Coast Guard received 0 public submissions commenting on the proposed rule. There have been no changes made to the rule as proposed.

### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 023-01, 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 which 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. 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, 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.T09-0073 to read as follows:

**§ 165.T09-0073 Safety and Security Zones; Tall Ships Challenge 2010; Great Lakes; Cleveland, OH; Bay City, MI; Duluth, MN; Green Bay, WI; Sturgeon Bay, WI; Chicago, IL; Erie, PA.**

(a) *Definitions.* The following definitions apply to this section: *Navigation Rules* means the Navigation Rules, International and Inland (*See*, 1972 COLREGS and 33 U.S.C. 2001 *et seq.*).

*Official Patrol* means those persons designated by Captain of the Port Buffalo, Detroit, Sault Ste. Marie, Duluth and Lake Michigan to monitor a Tall Ship safety and security zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone, and take other actions authorized by the cognizant Captain of the Port.

*Public Vessel* means vessels owned, chartered, or operated by the United States or by a State or political subdivision thereof.

*Tall Ship* means any sailing vessel participating in the Tall Ships Challenge 2010 in the Great Lakes. This includes, but is not limited to, the following: Sailing Vessel (S/V) AMISTAD, S/V APPLIEDORE IV, S/V APPLIEDORE V, HMS BOUNTY, S/V DENIS SULLIVAN, S/V EUROPA, S/V FAZISI, S/V FRIENDS OF GOOD WILL, S/V INLAND SEAS, S/V LAREVENANTE, S/V LYNX, S/V MADELINE, S/V FLAGSHIP NIAGARA, S/V PATHFINDER, S/V PLAYFAIR, S/V PRIDE OF BALTIMORE II, S/V ROALD AMUNDSEN, S/V RED WITCH, S/V ROTALISTE, S/V ROSEWAY, S/V UNICORN, S/V WELCOME, and S/V WINDY.

(b) *Location.* The following area is a safety and security zone: all navigable waters of the United States located in the Ninth Coast Guard District within a 100 yard radius of any Tall Ship.

(c) *Regulations.* (1) Entry into a safety and security zone described in paragraph (b) of this section is prohibited unless authorized by the cognizant Coast Guard Captain of the Port or the Official Patrol.

(2) Vessels may request permission to enter into a safety and security zone described in paragraph (b) of this section by contacting the Official Patrol on VHF channel 16.

(3) Any vessel operating within a safety and security zone established by this section must operate at the minimum speed necessary to maintain a safe course and must proceed as directed by the Captain of the Port or the on-scene Official Patrol. Any vessel or person allowed to enter a safety and security zone established by this section must still remain at least 25 yards from any Tall Ship, unless authorized to

come within such a distance pursuant to paragraph (c)(4) of this section or permitted to come within such a distance by the cognizant Captain of the Port, his or her designated representative, or the on-scene Official Patrol.

(4) Vessels are permitted to transit through the safety and security zone in waterways that do not provide adequate navigable waters greater than 100 yards from the Tall Ships. Vessels transiting such areas must operate at the minimum speed necessary to maintain a safe course while also maintaining the greatest possible distance away from the Tall Ships.

(d) *Effective period.* This rule is effective from 12:01 a.m. on Wednesday, June 23, 2010 through 12:01 a.m. on Monday September 13, 2010.

(e) *Navigation Rules.* The Navigation Rules must apply at all times within a Tall Ships safety and security zone.

(f) When a Tall Ship approaches within 25 yards of any vessel that is moored or anchored, the stationary vessel must stay moored or anchored while it remains within the tall ship's safety and security zone unless ordered by or given permission from the cognizant Captain of the Port, his or her designated representative, or the on-scene official patrol to do otherwise.

Dated: May 21, 2010.

**M.N. Parks,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 2010-14146 Filed 6-11-10; 8:45 am]

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## DEPARTMENT OF EDUCATION

### 34 CFR Part 5

**RIN 1880-AA84**

[Docket ID ED-2008-OM-0011]

#### Availability of Information to the Public

**AGENCY:** Office of Management, Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the regulations governing the Department's compliance with the Freedom of Information Act, as amended (FOIA or the Act) to reflect the changes in the FOIA over recent years.

**DATES:** These regulations are effective July 14, 2010.

**FOR FURTHER INFORMATION CONTACT:** Angela Arrington, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-5920. Telephone: (202) 401-8365.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.

**SUPPLEMENTARY INFORMATION:** On November 26, 2008, the Secretary published a notice of proposed rulemaking (NPRM) to amend the Department's FOIA regulations in 34 CFR part 5 in the **Federal Register** (73 FR 71986). In the summary to the NPRM, on pages 71987 through 71993, the Secretary discussed how the proposed regulations would amend and update the Department's FOIA regulations to implement changes made to the FOIA (5 U.S.C. 552) in recent years and articulate more clearly, to the public, how the Department processes FOIA requests for publicly available records.

After the public comment period ended, there was further public guidance regarding FOIA issued by the White House and the Department of Justice<sup>1</sup> that we took into account in preparing these final regulations. Thus, there is one substantive difference between the regulations proposed in the NPRM and these final regulations. Specifically, proposed § 5.2 (General policy), which stated the Department's general policy regarding the availability of information under FOIA, has been removed and proposed § 5.3 (Definitions) has been redesignated as § 5.2 (Definitions). Upon further internal review after the publication of the NPRM, and light of the public guidance regarding FOIA, we determined that proposed § 5.2 was unnecessary and potentially confusing. Proposed § 5.2 did not add any requirements or clarification to the Department's FOIA process. Rather, the remaining proposed regulations, adopted as final through these regulations, comprehensively describe how the Department processes FOIA requests.

#### Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, the Department received no comments on the proposed regulations.

<sup>1</sup> The President's January 21, 2009 memorandum on FOIA may be found at [http://www.whitehouse.gov/the\\_press\\_office/Freedom\\_of\\_Information\\_Act/](http://www.whitehouse.gov/the_press_office/Freedom_of_Information_Act/). FOIA guidance issued by the Department of Justice may be found at <http://www.justice.gov/oip/foiapist/mainpage.htm>.

## Executive Order 12866

Under Executive Order 12866, the Secretary must determine whether the regulatory action is "significant" and therefore subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may (1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order. Pursuant to the terms of the Executive order, it has been determined that this regulatory action is not a significant regulatory action subject to OMB review under section 3(f) of Executive Order 12866.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

We summarized the potential costs and benefits of these final regulations in the NPRM at 73 FR 71993.

#### Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

#### Electronic Access to This Document

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