Subpart J—[Amended]

12. Amend §1918.103 by revising paragraph (b)(1) to read as follows:

§1918.103 Head protection.

(b)(1) The employer must ensure that head protection complies with any of the following consensus standards:


(ii) American National Standards Institute (ANSI) Z89.1–2003, “American National Standard for Industrial Head Protection,” incorporated by reference in §1918.3; or


* * * * *

PART 1926—[AMENDED]

A—General [Amended]

13. Revise the authority citation for subpart A of part 1926 to read as follows:


14. Amend §1926.6 as follows:

a. Add paragraphs (h)(28) and (h)(29).

b. Add new paragraph (h)(30).

§1926.6 Incorporation by reference.


* * * * *

Subpart E—[Amended]

15. Revise the authority citation for subpart E of part 1926 to read as follows:


16. Amend §1926.100 as follows:

a. Add paragraphs (b)(1) through (b)(3).

b. Remove paragraph (c).

§1926.100 Head protection.

(h)(1) The employer must provide each employee with head protection that meets the specifications contained in any of the following consensus standards:


(ii) American National Standards Institute (ANSI) Z89.1–2003, “American National Standard for Industrial Head Protection,” incorporated by reference in §1926.6; or


* * * * *

SUMMARY: The Coast Guard is establishing a temporary safety zone around the nineteen vessels associated with Arctic drilling as well as their lead towing vessels while those vessels are underway in the Puget Sound Captain of the Port Zone. The safety zone is necessary to ensure the safety of the maritime public and specified vessels while they transit and will so do by prohibiting any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port or a Designated Representative.

DATES: This rule is effective with actual notice from June 7, 2012, until June 22, 2012. This rule is effective in the Code of Federal Regulations from June 22, 2012 through August 1, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0508. 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
email Ensign Anthony P. LaBoy, Waterways Management Division, Coast Guard Sector Puget Sound; Coast Guard; telephone 206–217–6323, email 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

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A. Regulatory History and 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 it would be impracticable. Due to the hazardous conditions discussed below, it is necessary to make this regulation effective immediately in order to ensure the safety of the maritime public while the named vessels are transiting.

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. It is impracticable to have a delayed effective date because some of the specified vessels are currently in Puget Sound. Immediate action is necessary to protect the public from the threat to navigational safety posed by such tactics or activities as described above.

B. Basis and Purpose

In June 2011, Greenpeace protesters illegally boarded Cairn Energy’s drilling platform off Greenland. Greenpeace has identified that both Shell and British Petroleum are possible future targets in 2012 and 2013. On February 16, 2012, the environmental advocacy organization Alaska Wilderness League made local inquiries and chartered a vessel to observe the mobile offshore drilling unit (MODU) KULLUK, which is currently undergoing retro-fit at Vigor shipyard in Seattle. On February 26, 2012, actress Lucy Lawless and six Greenpeace activists illegally boarded the drilling vessel NOBLE DISCOVERER in New Zealand. On March 16 2012, Greenpeace activists boarded the Finnish icebreaker FENNICA, a Shell-contracted vessel, and hung banners from the vessel’s cranes. On May 1–4, 2012, Greenpeace activists conducted multi-faceted direct action operations aimed at delaying the transit of the Finnish icebreaker NORDICA, a Shell-contracted vessel. Activists boarded the vessel while moored, blocked the vessel with kayaks and swimmers as it got underway, and boarded the vessel while underway at sea via small boats. Further on 31 May 2012, the Greenpeace motor vessel ESPERANZA entered Elliott Bay. While the Coast Guard respects the First Amendment rights of protesters, it is clear that certain unlawful protest activity poses a danger to the life and safety of protesters, target vessels, and other legitimate waterway users. The Coast Guard must take swift action to prevent such harm.

The following vessels associated with exploratory drilling in the Arctic may be transiting into, out of, or around the Sector Puget Sound Captain of the Port (COTP) Zone from now until August 1st 2012: NOBLE DISCOVERER, KULLUK, NORDICA, FENNICA, TOISA DAUNTLESS, TOR VIKING II, HARVEY EXPLORER, HARVEY SPIRIT, HARVY SISUQAQ, AIVIQ, NANUQ, GUARDSMAN, KALMATH, ARCTIC CHALLENGER, Z BIG 1, LAUREN FOSS, CORBIN FOSS, ARCTIC ENDEAVOR, POINT OLIKTOK and any towing vessel actively engaged in the towing or escorting of these vessels. Based on a recent history of unsafe demonstration tactics and vessel boardings of some of these vessels in New Zealand and Finland within the past six months, the Coast Guard finds it necessary to establish this temporary safety zone in order to allow for safe and lawful on-water protests without endangering the lives or safety of any person or vessel, and to keep the waterways unrestricted to all legitimate users.

Persons or vessels positioned in the path of the specified vessels, all of which are extremely large, and many of which transit with tow or tug assistance, would present an extremely hazardous situation. Named vessels could be forced to deviate from their routes into more shallow water, out of an established traffic scheme or International Maritime Organization established Traffic Separation Scheme, or into otherwise unsafe conditions. This could create a hazardous situation where the presence of large vessels would be at risk of collision or grounding or break down the good order and predictability of vessel traffic flow in the Vessel Traffic Service area of operations. Additionally, persons in the water and small vessels coming within 500 yards of one of the oncoming named vessels may be injured or killed in a collision, especially since the larger of the named vessels, including those vessels in tow, may be unable to see such persons or small vessels, and would not be able to stop, reduce speed, or turn quickly enough to avoid a collision. In addition, blocking of the waterway or portions of the waterway, and maneuvering close to large vessels underway could expose other legitimate waterway users to similar risks of grounding or collision, and expose persons or vessels engaged in such tactics to collisions with other waterway users. This risk is exacerbated by areas of congestion within the Puget Sound COTP Zone. Tacoma and Seattle together comprise the 3rd largest container ship port in the United States. In addition, the Puget Sound COTP Zone has the largest ferry system in the United States. As such, persons and small vessels in Puget Sound must contend with numerous large container ships and ferries transiting Puget Sound, in addition to other waterway users such as recreational vessels, construction vessels, public vessels, and others.

C. Discussion of the Final Rule

In order to improve safety in light of the considerations above, the Coast Guard is establishing a temporary safety zone to restrict vessel movement around the vessels specified in the Background section of this notice. The safety zone established by this rule will prohibit any person or vessel from entering or remaining within 500 yards of the following specified vessels, unless authorized by the COTP or his Designated Representative, while in the Sector Puget Sound COTP Zone: NOBLE DISCOVERER, KULLUK, NORDICA, FENNICA, TOISA DAUNTLESS, TOR VIKING II, HARVEY EXPLORER, HARVEY SPIRIT, HARVY SISUQAQ, AIVIQ, NANUQ, GUARDSMAN, KALMATH, ARCTIC CHALLENGER, TUUQ, LAUREN FOSS, CORBIN FOSS, ARCTIC ENDEAVOR, and POINT OLIKTOK. This safety zone includes any associated towing and assist vessels, and associated towing equipment, including the towline. The COTP has granted general permission for vessels to enter the outer 400 yards of the safety zone, aft of the pilot house of these vessels, or the lead towing vessel for those vessels in tow, as long as those vessels are transiting into, out of, or around the COTP Zone. Tacoma and Seattle together comprise the 3rd largest container ship port in the United States. As such, persons and small vessels in Puget Sound must contend with numerous large container ships and ferries transiting Puget Sound, in addition to other waterway users such as recreational vessels, construction vessels, public vessels, and others.
speed necessary to maintain course
unless required to maintain speed by
the navigation rules.
It is noted that in March of 2012, the
U.S. District Court for the District of
Alaska issued a preliminary injunction
order in a civil case between Shell Oil,
Inc., and Greenpeace. This civil
injunction generally requires
Greenpeace to remain 500–1000 yards
away from the named vessels. The Coast
Guard is not required to enforce this
injunction, and will not do so. This
regulation is separate and distinct from
the civil injunction, and is applicable to
all vessels, whether or not they are
acting on behalf of Greenpeace, and
whether or not the persons aboard are
engaged in any sort of protests or
demonstration. The purpose of the
present regulation is to protect the
safety of all legitimate waterway users.

D. 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.
1. Regulatory Planning and Review
This rule is not a significant
regulatory action under section 3(j) 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 around the safety zone. Maritime
traffic may also request permission to
transit through the zones from the
COTP, Puget Sound, or 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 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 Designated
Representative.
3. Assistance for Small Entities
Under section 213(a) of the Small
Business Regulatory Enforcement
Fairness Act of 1996 (Pub. L. 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
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
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. Protections
The Safety Zone.
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 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 an emergency safety zone for all waters encompassed within 500 yards of the Arctic drilling and support vessels. 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 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

§ 165.1191 Safety Zone; Arctic Drilling and Support Vessels, Puget Sound, Washington.

(a) Location. The following area is a safety zone: All waters encompassed within 500 yards of the following vessels: NOBLE DISCOVERER, KULLUK, NORDICA, FENNICA, TOISA DAUNTLESS, TOR VIKING II, HARVEY EXPLORER, HARVEY SPIRIT, HARVY SISUAQ, AIVIQ, NANUQ, GUARDSMAN, KALMATH, ARCTIC CHALLENGER, TUUUQ, LAUREN FOSS, CORBIN FOSS, ARCTIC ENDEAVOR, and POINT OLIKTOK, to include the lead towing vessels and assist tugs, and associated towing gear, including the towline, while these vessels are transiting in the Sector Puget Sound Captain Of The Port (COTP) Zone as defined in 33 CFR 3.65–10.

(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 COTP or his Designated Representative. A “designated representative” is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP to act on his or her behalf. The COTP has granted general permission for persons or vessels to enter the outer 400 yards of the safety zone, aft of the pilot house of the vessel or lead towing vessels, as applicable, as long as those vessels within the outer 400 yards of the safety zone operate at the minimum speed necessary to maintain course unless required to maintain speed by the navigation rules. The COTP 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 inner 100 yards of the safety zone or transit the outer 400 yards at greater than minimum speed necessary to maintain course unless required to maintain speed by the navigation rules must obtain permission from the COTP or a Designated Representative by contacting the on-scene Coast Guard patrol craft on VHF 13 or Ch 16. Requests must include the reason why movement within this area is necessary. Vessel operators granted permission to enter the safety 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 will be enforced through August 1, 2012, unless canceled sooner by the Captain of the Port.

Dated: June 7, 2012.

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

[FR Doc. 2012–15156 Filed 6–21–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2012–0416]

Safety Zone; San Francisco Independence Day Fireworks Display, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zones for the San Francisco Independence Day Fireworks Display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 9 a.m. on July 3, 2012 through 10:15 p.m. on July 4, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Ensign William Hawn, Sector San Francisco Waterways Safety Division, U.S. Coast Guard; telephone 415–399–7442, email D11–PF–MarineEvents@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the San Francisco Independence Day Fireworks Display safety zones from 9 a.m. on July 3, 2012 through 10:15 p.m. on July 4, 2012.

For Location 1, during the loading of the fireworks barges, while the barges are being towed to the display location, and until the start of the fireworks display, the safety zone applies to the navigable waters around and under the fireworks barges within a radius of 100 feet. Loading of the pyrotechnics onto the fireworks barges is scheduled to take place from 9 a.m. until 2 p.m. on July 3, 2012, and will take place at Pier 50 in San Francisco, CA. Towing of the barge from Pier 50 to the display location is scheduled to take place from 8 p.m. until 8:45 p.m. on July 4, 2012. During the 25 minute fireworks display, scheduled to take place from 9:30 p.m. until 9:55 p.m. on July 4, 2012, the fireworks barge will be located 1,000 feet off of Pier 39 in position 37°48′49″ N, 122°24′46″ W (NAD 83) for the San Francisco Independent Day Fireworks Display.

For Location 2, the safety zone is scheduled to take place from 9 a.m. until 9:15 p.m. on July 4, 2012. During the 50 minute fireworks display, scheduled to take place from 9:25 p.m. until 10:15 p.m. on July 4, 2012, the fireworks barge will be located 1,000 feet off of Pier 39 in position 37°48′49″ N, 122°24′46″ W (NAD 83) for the Independence Day Fireworks Display.