

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. 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.T13–0251 to read as follows:

#### § 165.T13–0251 Safety Zone; Pierce County Department of Emergency Management Regional Water Exercise, East Passage, Tacoma, WA.

(a) *Location.* All waters of East Passage encompassed within 900 yards of Browns Point, Washington at position 47°18′21″ N 122°26′39″ W.

(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 South Sound Water Exercise Control on VHF Channel 22A or via telephone at (253) 691–1313. Vessel operators granted permission to enter the zone will be escorted by the on-scene patrol craft until they are outside of the safety zone.

(d) *Enforcement Period.* This rule is effective from 7 a.m. until 5 p.m. on June 9, 2011 unless canceled sooner by the Captain of the Port.

Dated: April 15, 2011.

**S.J. Ferguson,**

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

[FR Doc. 2011–10242 Filed 4–27–11; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2011–0250]

RIN 1625–AA00

#### Safety Zones: Bellingham Bay, Bellingham, WA and Lake Union, Seattle, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is removing two redundant sections from its regulations: Bellingham Bay, Bellingham, WA, and Lake Union, Seattle, WA. This action is necessary to eliminate duplicate safety zones from the regulations. These safety zones are also codified under these regulations: Safety Zones; annual firework displays within the Captain of the Port, Puget Sound Area of Responsibility.

**DATES:** This rule is effective May 31, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0250 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0250 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 rule, call or e-mail Ensign Anthony P. LaBoy, USCG Sector Puget Sound Waterways Management Division, Coast Guard; telephone 206-217-6323, e-mail [SectorPugetSoundWWM@uscg.mil](mailto: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:**

##### **Regulatory 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 unnecessary as this rule’s sole purpose is to remove redundant sections from Title 33 of the Code of Federal Regulations. The safety zones that are being removed from the Code of Federal Regulations are already codified under 33 CFR 165.1332.

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

After reviewing 33 CFR part 165, the Coast Guard has determined that §§ 165.1304 and 165.1306 are no longer necessary because the safety zones in these sections are already codified under 33 CFR 165.1332. The Coast Guard is removing these redundant sections to eliminate possible confusion and to use the more recently established rule governing these safety zones.

##### **Background**

On June 10, 2010, 33 CFR 165.1332 Safety Zones; annual firework displays within the Captain of the Port, Puget Sound Area of Responsibility was published in the **Federal Register**. This section simplified the fireworks safety zones. This new section also encompasses the fireworks safety zones contained in 33 CFR 165.1304 and 165.1306. Therefore, the safety zones in 33 CFR 165.1304 and 165.1306 are unnecessary.

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

The Coast Guard is removing 33 CFR 165.1304 and 165.1306 from the Code of Federal Regulations. 33 CFR 165.1332

establishes and lists a number of safety zones, including those contained in the sections being removed at 33 CFR 165.1304 and 165.1332.

##### **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. The Coast Guard bases this finding on the fact that this rule does not include creating any new zones only the removal of two sections that were more recently codified under 33 CFR 165.1332.

##### **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 would not have a significant economic impact on a substantial number of small entities. This rule would not affect any small entities since this rule does not involve creating any new safety zones. Information concerning fireworks safety zones in Puget Sound affecting small entities can be found in docket number: USCG-2010-0063 at <http://www.regulations.gov>.

##### **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.

##### **Collection of Information**

This rule would call 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 would 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 M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have 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 removing 33 CFR 165.1304 and 165.1306 as these safety zones are already codified under 33 CFR 165.1332. Under figure 2-1, paragraph (34)(g), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for 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

■ 1. The authority citation for Part 165 continues to read as follows:

**Authority:** 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; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Remove § 165.1304.

■ 3. Remove § 165.1306.

Dated: April 7, 2011.

**S.J. Ferguson,**

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

[FR Doc. 2011-10248 Filed 4-27-11; 8:45 am]

**BILLING CODE 9110-04-P**

#### DEPARTMENT OF EDUCATION

##### 34 CFR Part 222

**RIN 1810-AA94**

#### Impact Aid Programs

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary of Education amends the regulations governing the Impact Aid Discretionary Construction program, authorized under section 8007(b) of the Elementary and Secondary Education Act of 1965, as amended. This program provides competitive grants for emergency repairs and modernization of school facilities to certain eligible local educational agencies (LEAs) that receive Impact Aid formula funds. These final regulations amend a requirement for applying for these Impact Aid funds and will improve the administration and distribution of funds under this program. These final regulations apply to grant competitions in fiscal year (FY) 2012 and later years.

**DATES:** These regulations are effective May 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Kristen Walls-Rivas, Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 260-1357 or via e-mail: [Kristen.Walls-Rivas@ed.gov](mailto:Kristen.Walls-Rivas@ed.gov).

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 under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** On August 13, 2010, the Secretary published a notice of proposed rulemaking (NPRM) for the Impact Aid Discretionary Construction program in the **Federal Register** (75 FR 49432). That notice contained background information and our reasons for proposing the particular changes to the regulations, which were proposed to limit Impact Aid Discretionary Construction program applicants to one application per year and one school per application.

There are no differences between the NPRM and these final regulations.

#### Analysis of Comments

In response to our invitation in the NPRM, three parties submitted comments, one of which was related to the proposed regulations and the rest of which were outside the scope of the proposed regulations. An analysis of the comments since publication of the NPRM follows. Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize the Secretary to make.

**Comment:** One commenter suggested that instead of limiting each applicant to one application addressing one construction project, each applicant's total receivable funds should be limited to a percentage of the total amount available for new awards, and applicants should continue to be allowed to submit multiple applications for multiple projects.

**Discussion:** The program statute, which limits the amount of funds provided under emergency or modernization grants at \$4 million per LEA over 4 years (or no limit for LEAs with no practical capacity to issue bonds), precludes the Department from specifying a maximum award amount per LEA based on other criteria, such as a percentage of the total amount of funding available. Because the total award amount varies from year to year, assigning a fixed percentage cap could have the effect of limiting some grantees' awards to levels less than the limit prescribed by the statute. The Department believes that these final regulations are the most effective course of action for ensuring that more applicants have the opportunity to receive grants to meet urgent emergency