

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket No. USCG–2009–0752]

RIN 1625–AA00

**Safety Zones: Fireworks Displays Within the Captain of the Port Puget Sound Zone**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The U.S. Coast Guard is establishing safety zones on the waters of the Puget Sound located in the Captain of the Port Puget Sound Zone during multiple fireworks displays. This action is necessary to provide for the safety of life and avoidance of injury resulting from these displays. Entry into, transit through, mooring, or anchoring within these zones is prohibited unless authorized by the Captain of the Port, Puget Sound or Designated Representative.

**DATES:** The effective date of this temporary final rule is September 10, 2009 through 8 a.m. on September 13, 2009 unless canceled sooner by the Captain of the Port. This temporary final rule was enforced with actual notice by Coast Guard personnel beginning at 8 a.m. on August 22, 2009. Rules enforced through actual notice are superseded by this rule as of September 10, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0752 and are available online by going to <http://www.regulations.gov>, inserting USCG–2009–0752 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 ENS Ashley M. Wanzer, Waterways Management, Sector Seattle, Coast Guard; telephone 206–217–6175, e-mail [Ashley.M.Wanzer@uscg.mil](mailto:Ashley.M.Wanzer@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 public safety due to inherent hazards that may exist in conjunction with these fireworks events.

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**. Immediate action is necessary to ensure public safety since these events encompass the launching of projectiles over a marine environment with the fallout of hot debris and flammable materials in a vicinity of public marine traffic and spectators.

**Background and Purpose**

The U.S. Coast Guard is establishing temporary safety zones to allow for safe fireworks displays. The effective time is from 8 a.m. on August 22, 2009 through 8 a.m. on September 13, 2009 unless canceled sooner by the Captain of the Port. All events occur within the Captain of the Port, Puget Sound, WA, Area of Responsibility (AOR). The following areas are designated safety zones:

(1) John Eddy Wedding, Magnolia Bluff, WA.

(i) *Location.* All water of Magnolia Bluff, WA extending to a 500’ radius from the launch site at 49°38’59.25” N 122°25’21.34” W.

(ii) *Enforcement time and date.* 9 p.m. to 11:30 p.m. on August 22, 2009.

(2) True Colors Event, Blaine, WA.

(i) *Location.* All water of Blaine, WA extending to a 300’ radius from the launch site at 48°59’29.25” N 122°46’20.36” W.

(ii) *Enforcement time and date.* 9 p.m. to 11:30 p.m. on September 6, 2009.

(3) Kirkland Concours D’Elegence, Kirkland, WA.

(i) *Location.* All water of Kirkland, Lake Washington, WA extending out to a 400’ radius from the launch site at 47°39’31.27” N 122°12’26.35” W.

(ii) *Enforcement time and date.* 9 p.m. to 11:30 p.m. on September 12, 2009.

(4) Mikilteo Lighthouse Festival, Possession Sound, WA.

(i) *Location.* All water of Possession Sound, WA extending out to a 800’ radius from the launch site at 47°56’54” N 122°18’36” W.

(ii) *Enforcement time and date.* 8:30 p.m. to 11:30 p.m. on September 12, 2009.

These events may result in a number of vessels congregating near fireworks launching barges and sites. The safety zones are needed to protect watercraft and their occupants from safety hazards associated with fireworks displays. The Captain of the Port Puget Sound may be assisted by other Federal and local agencies in the enforcement of this safety zone.

**Discussion of Rule**

This rule will control the movement of all vessels and persons in a regulated area surrounding the fireworks events indicated in this Temporary Final Rule. The safety zones do not extend on land.

The U.S. Coast Guard through this action intends to promote the safety of vessels and spectators during fireworks displays and activities associated with these events. Entry into this zone by all vessels or persons will be prohibited unless authorized by the Captain of the Port or Designated Representative. The Captain of the Port may be assisted by other Federal, State, or local agencies as needed.

**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. This rule is not a significant regulatory action because it is short in duration and does not affect a large area or a critical waterway.

**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 temporary rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit a portion of the Puget Sound while this rule is enforced. These safety zones will not have significant economic impact on a substantial number of small entities for the following reasons. This temporary rule will be in effect for minimal times when vessel traffic volume is low and are limited in size. If safe to do so, traffic will be allowed to pass through the zone with the permission of the Captain of the Port or Designated Representative.

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 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 affect 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 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. This rule involves multiple safety zones on the waters of Puget Sound established for one week or longer to deal with an emergency situation.

An "Environmental Analysis Check List" and a "Categorical Exclusion Determination" will be available in the docket.

#### 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. 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 temporary § 165.T13–107 to read as follows:

**§ 165.T13–107 Safety Zones: Fireworks displays within the Captain of the Port, Puget Sound Zone.**

(a) *Safety Zones.* The following areas are designated safety zones:

(1) John Eddy Wedding, Magnolia Bluff, WA.

(i) *Location.* All water of Magnolia Bluff, WA extending to a 500' radius from the launch site at 49°38'59.25" N 122°25'21.34" W.

(ii) *Enforcement time and date.* 9 p.m. to 11:30 p.m. on August 22, 2009.

(2) True Colors Event, Blaine, WA.

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(i) *Location.* All water of Kirkland, Lake Washington, WA extending out to a 400' radius from the launch site at 47°39'31.27" N 122°12'26.35" W.

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(4) Mikilteo Lighthouse Festival, Possession Sound, WA.

(i) *Location.* All water of Possession Sound, WA extending out to an 800' radius from the launch site at 47°56'54" N 122°18'36" W.

(ii) *Enforcement time and date.* 8:30 p.m. to 11:30 p.m. on September 12, 2009.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel may enter, transit, moor, or anchor within this safety zone, except for vessels authorized by the Captain of the Port or Designated Representative.

(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 either the on-scene patrol craft on VHF Ch 13 or Ch 16 or the Coast Guard Sector Seattle Joint Harbor Operations Center (JHOC) via telephone at (206) 217–6002.

(d) *Effective Period.* This rule is effective from 8 a.m. on August 22, 2009 through 8 a.m. on September 13, 2009 unless canceled sooner by the Captain of the Port.

Dated: August 20, 2009.

**Suzanne E. Englebert,**

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

[FR Doc. E9–21757 Filed 9–9–09; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA–HQ–OAR–2008–0236; FRL–8954–3]

RIN 2060–AP85

**National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries— Technical Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction.

**SUMMARY:** This action makes technical corrections to regulatory text of the “Revision of Source Category List for Standards Under Section 112(k) of the Clean Air Act; National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries,” which was issued as a final rule on June 25, 2009. These technical corrections will not change the standards established by the rule or the level of health protection provided.

**DATES:** *Effective Date:* September 10, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2008–0236. All documents in the docket are listed in the Federal Docket Management System index at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available (e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW.,

Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** For questions about the final standards for aluminum foundries, contact Mr. David Cole, Office of Air Quality Planning and Standards, Outreach and Information Division, Regulatory Development and Policy Analysis Group (C404–05), Environmental Protection Agency, Research Triangle Park, NC 27711; Telephone Number: (919) 541–5565; Fax Number: (919) 541–0242; E-mail address: [Cole.David@epa.gov](mailto:Cole.David@epa.gov). For questions about the final standards for copper foundries and other nonferrous foundries, contact Mr. Gary Blais, Office of Air Quality Planning and Standards, Outreach and Information Division, Regulatory Development and Policy Analysis Group (C404–05), Environmental Protection Agency, Research Triangle Park, NC 27711; Telephone Number: (919) 541–3223; Fax Number: (919) 541–0242; E-mail address: [Blais.Gary@epa.gov](mailto:Blais.Gary@epa.gov).

**SUPPLEMENTARY INFORMATION:** Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this action final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, noncontroversial, and do not substantively change the requirements of the rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B) (see also the final sentence of section 307(d)(1) of the Clean Air Act, 42 U.S.C. 7607(d)(1), indicating that the good cause provisions of the APA continue to apply to this type of rulemaking under the Clean Air Act).

*Regulated Entities.* The regulated categories and entities potentially affected by the final rule include:

Category	NAICS code <sup>1</sup>	Examples of regulated entities
Industry: Aluminum Foundries .....	331524	Area source facilities that pour molten aluminum into molds to manufacture aluminum castings (excluding die casting).