

2ND QUARTER 2008 LISTING—Continued

Docket No.	Location	Type	Effective date
COTP Port Arthur-06-032	Orange, TX	Safety Zones (Parts 147 and 165)	12/21/2006
COTP Port Arthur-15-006	Orange, TX	Safety Zones (Parts 147 and 165)	6/25/2006
COTP Port Arthur-19-006	Orange, TX	Safety Zones (Parts 147 and 165)	7/20/2006
COTP Prince William Sound 07-001.	Valdez, AK	Safety Zones (Parts 147 and 165)	4/29/2007
COTP San Diego 05-030	Lake Havasu, AZ	Safety Zones (Parts 147 and 165)	3/26/2005
COTP San Diego 05-053	San Diego, CA	Safety Zones (Parts 147 and 165)	10/11/2005
COTP San Diego 05-061	San Diego, CA	Safety Zones (Parts 147 and 165)	7/15/2005
COTP San Diego 05-080	San Diego, CA	Safety Zones (Parts 147 and 165)	12/11/2005
COTP San Diego 05-091	San Diego, CA	Safety Zones (Parts 147 and 165)	7/24/2005
COTP San Diego 05-093	San Diego, CA	Safety Zones (Parts 147 and 165)	8/2/2005
COTP San Diego 05-097	San Diego, CA	Safety Zones (Parts 147 and 165)	8/18/2005
COTP San Diego 05-100	San Diego, CA	Safety Zones (Parts 147 and 165)	10/1/2005
COTP San Diego 05-102	San Diego, CA	Safety Zones (Parts 147 and 165)	11/13/2005
COTP San Diego 07-004	San Diego, CA	Security zones (Part 165)	6/18/2007
COTP San Diego 07-005	San Diego, CA	Safety Zones (Parts 147 and 165)	7/7/2007
COTP San Diego 07-043	San Diego, CA	Safety Zones (Parts 147 and 165)	7/4/2007
COTP San Diego 07-052	Mission Bay, CA	Safety Zones (Parts 147 and 165)	12/31/2007
COTP San Diego 07-069	San Diego Bay, CA	Special Local Regulation (Parts 100)	7/4/2007
COTP San Diego 07-074	San Diego Bay, CA	Safety Zones (Parts 147 and 165)	5/15/2007
COTP San Diego 07-152	San Diego Bay, CA	Safety Zones (Parts 147 and 165)	7/3/2007
COTP San Diego 07-251	San Diego Bay, CA	Safety Zones (Parts 147 and 165)	6/30/2007
COTP San Diego 07-252	San Diego Bay, CA	Safety Zones (Parts 147 and 165)	7/4/2007
COTP San Diego 07-352	San Diego Bay, CA	Safety Zones (Parts 147 and 165)	7/4/2007
COTP San Diego 07-452	Ocean Beach, CA	Safety Zones (Parts 147 and 165)	7/4/2007
COTP San Diego 07-552	Ocean Beach, CA	Safety Zones (Parts 147 and 165)	7/4/2007
COTP St. Petersburg 06-081	Tampa Bay, FL	Safety Zones (Parts 147 and 165)	4/25/2006
COTP St. Petersburg 06-105	Tampa Bay, FL	Safety Zones (Parts 147 and 165)	5/28/2006
COTP St. Petersburg 06-124	Ft. Myers, FL	Safety Zones (Parts 147 and 165)	7/4/2006
COTP St. Petersburg 06-137	Marco Island, FL	Safety Zones (Parts 147 and 165)	7/4/2006
COTP St. Petersburg 06-138	Venice Inlet, FL	Safety Zones (Parts 147 and 165)	7/4/2006
COTP St. Petersburg 06-139	Bradenton Beach, FL	Safety Zones (Parts 147 and 165)	7/3/2006
COTP St. Petersburg 06-170	San Carlos Bay, FL	Safety Zones (Parts 147 and 165)	8/5/2006
COTP St. Petersburg 06-255	Tampa Bay, FL	Safety Zones (Parts 147 and 165)	11/23/2006

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2008-1096]

RIN 1625-AA00

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing several safety zones in the Captain of the Port Portland, Oregon zone for annual fireworks displays that take place around the 4th of July each year. The safety zones are necessary to help ensure the safety of the maritime public during the events and will do so by prohibiting all persons and vessels from entering the safety zones unless authorized by the Captain of the Port Portland, Oregon or his/her designated representatives.

**DATES:** This rule is effective January 22, 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-2008-1096 and are available online by going to <http://www.regulations.gov>, inserting USCG-2008-1096 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 MST1 Jaime Sayers, Coast Guard Sector Portland; telephone 503-240-9319, e-mail [Jaime.A.Sayers@uscg.mil](mailto:Jaime.A.Sayers@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 March 24, 2009, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zones: Fireworks Displays in the Captain of the Port Portland Zone" in the **Federal Register** (74 FR 12292). We received no comments on the proposed rule. No public meeting was requested and none was held.

**Background and Purpose**

Fireworks displays create hazardous conditions for the maritime public as a result of the large number of vessels that congregate near the displays as well as the noise, falling debris, and explosions that occur during the events. The safety zones established by this rule will help to ensure the safety of the maritime public by prohibiting all persons and vessels from coming too close to the fireworks displays and their associated hazards.

**Discussion of Comments and Changes**

No comments on this rule were received and no changes to the rule were made.

## 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 has made this finding because the rule will have little, if any, economic impact since the safety zones it establishes will only be in effect for several hours during one day each year and will not significantly impede maritime traffic transiting the areas where they are located.

### 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 or operators of vessels wishing to transit one of the safety zones established by this rule. The rule will not have a significant economic impact on a substantial number of small entities, however, because the safety zones established are only to be in effect for several hours during one day each year and will not significantly impede maritime traffic transiting the areas where they are located.

### 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.

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 effect 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 M16475.1D, 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 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 the establishment of safety zones. 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; 33 CFR 1.05–1(g), 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. Amend § 165.1315 to add paragraphs (a)(15) through (24) and revise paragraphs (b) and (c) to read as follows:

#### § 165.1315 Safety Zones: Fireworks Displays in the Captain of the Port Portland Zone.

(a) \* \* \*

(15) *Arlington Chamber of Commerce Fireworks Display, Arlington, OR:*

(i) *Location.* All waters of the Columbia River encompassed by lines connecting the following points in the vicinity of Arlington, Oregon: from the southern shore of the Columbia River at 45°43'23" N 120°12'11" W, thence to 45°43'29" N 120°12'12" W, thence to 45°43'31" N 120°12'06" W, thence to the southern shore of the Columbia River at 45°43'26" N 120° 12'12" W.

(ii) *Enforcement period.* This safety zone is in effect from approximately 8:30 p.m. to approximately 11:30 p.m. for one day during the last week of June or the first week of July each year.

(16) *East County 4th of July Fireworks, Gresham, OR:*

(i) *Location.* All waters of the Columbia River encompassed in a 500 foot radius around position 45°33'33" N 122°27'03" W.

(ii) *Enforcement period.* This safety zone is in effect from approximately

8:30 p.m. to approximately 11:30 p.m. for one day during the first week of July each year.

(17) *Port of Cascade Locks July 5th Fireworks Display, Cascade Locks, OR:*

(i) *Location.* All waters of the Columbia River encompassed in a 500 foot radius around position 45°40'16" N 121°53'38" W.

(ii) *Enforcement period.* This safety zone is in effect from approximately 8:30 p.m. to approximately 11:30 p.m. for one day during the first week of July each year.

(18) *Astoria Regatta Association Fireworks Display, Astoria, OR:*

(i) *Location.* All waters of the Columbia River encompassed by lines connecting the following points in the vicinity of Astoria, Oregon: from the southern shore of the Columbia River at 46°22'34" N 123°48'33" W, thence to 46°11'52" N 123°48'35" W, thence to 46°11'52" N 123°48'19" W, thence to the southern shore of the Columbia River at 46°11'39" N 123° 48'13" W.

(ii) *Enforcement Period.* This safety zone is in effect from approximately 11:30 p.m. one day during the second weekend of August each year.

(19) *City of Washougal July 4th Fireworks Display, Washougal WA:*

(i) *Location.* All waters of the Columbia River encompassed by lines connecting the following points in the vicinity of Washougal, Washington: from the northern shore of the Columbia River at 45°33'50" N 122°20'16" W, thence to 45°33'42" N 122°02'29" W, thence to 45°33'53" N 122°20'39" W, thence to the northern shore of the Columbia River at 45°35'04" N 122°20'53" W.

(ii) *Enforcement period.* This safety zone is in effect from approximately 8:30 p.m. to approximately 11:30 p.m. one day during the first week of July each year.

(20) *City of St. Helens 4th of July Fireworks Display, St. Helens, OR:*

(i) *Location.* All waters of the Columbia River encompassed in a 1200 foot radius around position 45°51'51" N 122°47'22" W.

(ii) *Enforcement period.* This safety zone is in effect from approximately 8:30 p.m. to approximately 11:30 p.m. one day during the first week of July each year.

(21) *Waverly Country Club 4th of July Fireworks Display, Milwaukie, OR:*

(i) *Location.* All waters of the Willamette River encompassed by lines connecting the following points in the vicinity of Milwaukie, Oregon: from 45°27'10" N 122°29'35" W, thence to 45°27'12" N 122°39'25" W, thence to 45°26'56" N 122°39'15" W, thence to 45°26'52" N 122°39'25" W.

(ii) *Enforcement period.* This safety zone is in effect from approximately 8:30 p.m. to approximately 11:30 p.m. one day during the first week of July each year.

(22) *Booming Bay Fireworks, Westport, WA:*

(i) *Location.* All waters of Grays Harbor encompassed in a 600 foot radius around position 46°54'14" N 124°06'08" W.

(ii) *Enforcement period.* This safety zone is in effect from approximately 8:30 p.m. to approximately 11:30 p.m. one day during the last week of June or the first week of July each year.

(23) *Hood River 4th of July, Hood River, OR:*

(i) *Location.* All waters of the Columbia River encompassed in a 1000 foot radius around position 45°42'58" N 121° 30'31" W.

(ii) *Enforcement Period.* This safety zone is in effect from 8:30 p.m. to approximately 11:30 p.m. one day during the last week of June or the first week of July each year.

(24) *Rufus 4th of July Fireworks, Rufus, OR:*

(i) *Location.* All waters of the Columbia River encompassed in a 500 foot radius around position 45°41'30" N 120°45'47" W.

(ii) *Enforcement period.* This safety zone is in effect from approximately 8:30 p.m. to approximately 11:30 p.m. for one day during the last week of June or the first week of July each year.

(b) *Regulations.* In accordance with § 165.23 of this part, no person may enter or remain in these safety zones unless authorized by the Captain of the Port, Portland or his/her designated representative. Also in accordance with § 165.23 of this part, 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, Portland or his/her designated representative.

(c) *Notice.* In accordance with § 165.7 of this part, notification of the specific period of enforcement for each of these safety zones may be made by marine broadcast, local notice to mariners, local news media, distribution in leaflet form, on-scene oral notices, and/or publication in the **Federal Register**.

Dated: June 22, 2009.

**F.G. Mye,**

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

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