

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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 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.T13-144 to read as follows:

#### § 165.T13-144 Safety Zone; Washington State Department of Transportation Ferries Division Marine Rescue Response (M2R) Full-Scale Exercise for a Mass Rescue Incident (MRI).

(a) *Location.* All waters encompassed within 500 yards of the Washington State Ferries involved in the M2R exercise in Port Madison, WA on 25 May 2010.

(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 Coast Guard Sector Seattle Joint Harbor Operations Center (JHOC) on VHF Ch 16 or via telephone at (206) 217-6001. Vessel operators granted permission to enter the 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 is effective from 8 a.m. until 11:59 p.m. on 25 May 2010, unless canceled sooner by the Captain of the Port.

Dated: May 7, 2010.

**S. W. Bornemann,**

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

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**BILLING CODE 9110-04-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-1057]

RIN 1625-AA87

#### Security Zone; Escorted U.S. Navy Submarines in Sector Seattle Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a moving security zone around any U.S. Navy submarine that is operating in the Sector Seattle Captain of the Port Zone, which includes the Puget Sound and coastal waters of the State of Washington, and is being escorted by the Coast Guard. The security zone is necessary to help ensure the security of the submarines, their Coast Guard security escorts, and the maritime public in general. The security zone will do so by prohibiting all persons and vessels from coming within 1000 yards of an escorted submarine unless authorized by the Coast Guard patrol commander.

**DATES:** This rule is effective May 20, 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-2009-1057 and are available online by going to [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov), inserting USCG-2009-1057 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 LT Matthew N. Jones, Staff Attorney, Thirteenth Coast Guard District; telephone 206-220-7155, e-mail [Matthew.N.Jones@uscg.mil](mailto:Matthew.N.Jones@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

On January 13, 2010, we published an interim rule entitled "Security Zone; Escorted U.S. Navy Submarines in Sector Seattle Captain of the Port Zone" in the **Federal Register** (75 FR 1709). We received one comment on the proposed rule that was actually posted to the docket of a related rule. No one requested a public meeting 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** because waiting 30 days would be contrary to the public interest since U.S. Navy submarine operations in the Sector Seattle Captain of the Port Zone are ongoing, making the security zone created by this rule immediately necessary to help ensure the security of the submarines, their Coast Guard security escorts, and the maritime public in general.

#### Background and Purpose

U.S. Navy submarines frequently operate in the Sector Seattle Captain of the Port Zone as defined in 33 CFR 3.65-10, which includes the Puget Sound and coastal waters of the State of Washington. Due to the numerous security concerns involved with submarine operations near shore, the Coast Guard frequently provides security escorts of submarines when operating in that area. Security escorts of this type require the Coast Guard personnel on-scene to make quick judgments about the intent of vessels operating in close proximity to the submarines and decide, occasionally with little information about the vessels

or persons on board, whether or not they pose a threat to the submarine.

The security zone established by this rule will keep persons and vessels a sufficient distance away from submarines operating in the Sector Seattle Captain of the Port Zone so as to (1) avoid unnecessary and potentially dangerous contact with or distraction of Coast Guard security escorts and (2) give Coast Guard security escorts additional time and space to determine the intent of vessels that, for whatever reason, are operating too close to a submarine. Both of these effects will help ensure the security of the submarines, their Coast Guard security escorts, and the maritime public in general.

#### Discussion of Comments and Changes

This rule establishes a moving security zone encompassing all waters within 1000 yards of any U.S. Navy submarine that is operating in the Sector Seattle Captain of the Port Zone as defined in 33 CFR 3.65–10, which includes the Puget Sound and coastal waters of the State of Washington, and is being escorted by the Coast Guard. All persons and vessels are prohibited from entering the security zone unless authorized by the Coast Guard patrol commander. While naval vessel protection zones, under 33 CFR 165.2030, around these escorted U.S. Navy submarines are still in effect, persons would need to seek permission from the Coast Guard patrol commander to enter within 1000 yards of these escorted submarines while they are in the Sector Seattle Captain of the Port Zone.

One comment was received about this rule. The commenter expressed concerns about the potential for commercial traffic to have to deviate from established traffic lanes and/or instructions provided by Vessel Traffic Service (VTS) Puget Sound to avoid entering the security zone. A change to the rule was made based on this comment. Specifically, language was added to clarify that the Coast Guard patrol commander will coordinate with Vessel Traffic System users on a case-by-case basis to make appropriate passing arrangements under the circumstances.

#### 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 determination based on the fact that (1) the security zone is only in effect for the short periods of time when submarines are operating in the Sector Seattle Captain of the Port Zone and are being escorted by the Coast Guard, (2) the security zone moves with the submarines, (3) vessels will be able to transit around the security zone at most locations in the Puget Sound and other coastal waters of Washington, and (4) vessels may, if necessary, be authorized to enter the security zone with the permission of the Coast Guard patrol commander.

#### 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 intending to transit an area covered by the security zone. The security zone will not, however, have a significant economic impact on a substantial number of small entities because (1) the security zone is only in effect for the short periods of time when submarines are operating in the Sector Seattle Captain of the Port Zone and are being escorted by the Coast Guard, (2) the security zone moves with the submarines, (3) vessels will be able to transit around the security zone at most locations in the Puget Sound and other coastal waters of Washington, and (4) vessels may, if necessary, be authorized to enter the security zone with the permission of the Coast Guard patrol commander.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the interim rule 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 (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 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 security 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. 1226, 1231; 46 U.S.C. Chapter 701; 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. Revise § 165.1327 to read as follows:

#### § 165.1327 Security Zone; Escorted U.S. Navy Submarines in Sector Seattle Captain of the Port Zone.

(a) *Location.* The following area is a security zone: All waters within 1000 yards of any U.S. Navy submarine that is operating in the Sector Seattle Captain of the Port Zone, as defined in 33 CFR Section 3.65-10, and is being escorted by the Coast Guard.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Section 165, Subpart D, no person or vessel may enter or remain in the security zone created by paragraph (a) of this section unless authorized by the Coast Guard patrol commander. The Coast Guard patrol commander will coordinate with Vessel Traffic System

users on a case-by-case basis to make appropriate passing arrangements under the circumstances. 33 CFR Section 165, Subpart D, contains additional provisions applicable to the security zone created in paragraph (a) of this section.

(c) *Notification.* The Coast Guard security escort will attempt, when necessary and practicable, to notify any persons or vessels inside or in the vicinity of the security zone created in paragraph (a) of this section of its existence via VHF Channel 16 and/or any other means reasonably available.

Dated: April 25, 2010.

**G.T. Blore,**

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

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## POSTAL SERVICE

### 39 CFR Part 232

#### Conduct on Postal Property; Penalties and Other Law

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Postal Service is amending the Code of Federal Regulations to retract an increase in the maximum penalty for violations of the rules concerning conduct on Postal Service property.

**DATES:** *Effective Date:* May 20, 2010.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth P. Martin, General Counsel, Office of Inspector General, (703) 248-2100.

**SUPPLEMENTARY INFORMATION:** On January 27, 2010, the Postal Service published an amendment to the Code of Federal Regulations concerning the maximum penalty for a violation of the rules governing conduct on Postal Service property (75 FR 4273). The former rules had established the maximum penalty for a violation as a fine of not more than \$50 or imprisonment of not more than 30 days, or both. As revised by that notice, the maximum penalty for a violation was increased to a fine of not more than that allowed under title 18 of the United States Code or imprisonment of not more than 30 days, or both.

Since the publication of this amendment, the Postal Service has determined that it is necessary to revisit this matter, and to re-examine the text of the rule for clarity, specificity, and contractual compliance. For this reason, the Postal Service has determined that