

zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### D. Federalism and Indian Tribal Governments

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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

#### E. 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.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (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 a safety zone lasting only 1.5 hours that will prohibit entry within 600 feet of a fireworks display. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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.

#### 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 is amending 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:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1, Revision No. 01.2.

■ 2. Add § 165.T13–0875 to read as follows:

#### § 165.T13–0875 Safety Zone; Fireworks Display, Columbia River, Richland, WA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Columbia River, surface to bottom, 600 feet from the fireworks display site at approximately 46°16'29" N; 119°16'10" W. These coordinates are based on the pier located on the Columbia River near Howard Amon Park Waterfront on 80 Lee Boulevard, Richland, WA 99352.

(b) *Definitions.* As used in this section, a designated representative means a designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of the U.S. Coast Guard Sector Columbia River.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the Captain of the Port Sector Columbia River (COTP) or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by calling (503) 209–2468 or the Sector Columbia River Command Center on Channel 16 VHF–FM. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 7:30 p.m. through 9 p.m. on December 3, 2021, and from 7:30 p.m. through 9 p.m. on December 4, 2021.

Dated: November 23, 2021.

**M.S. Jackson,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Columbia River.*

[FR Doc. 2021–26158 Filed 12–1–21; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2021–0891]

RIN 1625–AA00

**Safety Zone; Haro Strait, San Juan County, WA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary moving safety zone for navigable waters within a 500-yard radius around the ZIM KINGSTON. The safety zone is needed to protect personnel, vessels, and the marine environment from the potential hazards associated with the vessel transit. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Puget Sound.

**DATES:** This rule is effective without actual notice from December 2, 2021 through 9 a.m. on December 6, 2021. For purposes of enforcement, actual notice will be used from 10 a.m. on November 24, 2021 until December 2, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0891 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Peter McAndrew, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone 206-217-6045, email [SectorPugetSoundWWM@uscg.mil](mailto:SectorPugetSoundWWM@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary 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, as the Coast Guard received initial notification on October 31, 2021 of an anticipated vessel transit from Victoria, BC to Vancouver, BC through US Waters by the ZIM KINGSTON. On or around

October 21, 2021, the ZIM KINGSTON lost containers overboard and two containers subsequently caught on fire and may contain toxic flammable gas or other hazardous materials. Immediate action is needed to respond to the potential safety hazards associated with the ZIM KINGSTON's transit. It is impracticable to publish an NPRM for this temporary rule because the safety zone must be established by November 24, 2021 to protect waterway users.

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**. Delaying the effective date of this rule would be impracticable because immediate action is needed to protect personnel, vessels, and the marine environment from the potential hazards associated with the vessel transit of the ZIM KINGSTON.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port (COTP) Puget Sound has determined that potential hazards associated with the transit of the ZIM KINGSTON will be a safety concern for anyone within a 500-yard radius of the vessel. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the transit.

**IV. Discussion of the Rule**

This rule establishes a safety zone from 10 a.m. November 24, 2021 through 9 a.m. December 6, 2021. The safety zone will cover all navigable waters within 500 yards of the ZIM KINGSTON. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the vessel is in transit. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

**V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

**A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the fact that the safety zone created by this rule is limited in size and duration. Vessel traffic would be able to safely transit around this safety zone. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

**B. Impact on Small Entities**

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### D. Federalism and Indian Tribal Governments

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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

### E. 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.

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (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 a safety zone for navigable waters within a 500-yard radius around the ZIM KINGSTON

through 9 a.m. December 6, 2021. The safety zone is needed to protect personnel, vessels, and the marine environment from the potential hazards associated with the vessel transit. It is categorically excluded from further review under paragraph L[60] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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.

### 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:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T13–0891 to read as follows:

#### § 165.T13–0891 Safety Zone; Haro Strait, San Juan County, WA.

(a) *Location.* The following area is a moving safety zone: All navigable waters within a 500-yard radius around the ZIM KINGSTON.

(b) *Definitions.* As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Puget Sound (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF Channel 16. Those in the safety zone must comply with all lawful orders or directions

given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This rule will be enforced from 10 a.m. November 24, 2021, through 9 a.m. December 6, 2021.

Dated: November 24, 2021.

**C.R. Cederholm,**

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

[FR Doc. 2021–26157 Filed 12–1–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

#### RIN 2900–AR40

### Awards Under the Nehmer Court Orders for Disability or Death Caused by a Condition Presumptively Associated With Herbicide Exposure; Implementing Court Order.

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is issuing this final rule to amend its regulation regarding the process for identifying and paying appropriate payees entitled to retroactive benefits. This amendment is necessary to implement a federal district court order directing the VA to remove certain regulatory text concerning subsequent release of compensation to a payee when the full amount of unpaid benefits has previously been released.

#### **DATES:**

*Effective date:* This final rule is effective December 2, 2021.

*Applicability date:* The provisions of this final rule shall apply to circumstances in which VA has received information about a newly identified and eligible payee (hereafter “new payee”) who has yet to receive the *Nehmer*-related benefits to which the new payee is entitled.

#### **FOR FURTHER INFORMATION CONTACT:**

Christopher O. Adeloje, Staff Attorney, Benefits Law Group, Office of General Counsel (022), 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–7662. (This is not a toll-free telephone number.)

#### **SUPPLEMENTARY INFORMATION:**

### I. Background and Basis for Revision of Regulation

In 1991, as part of the *Nehmer* litigation (*Nehmer v. U.S. Department of Veterans Affairs*, 712 F.Supp. 1404 (N.D. Cal. May 3, 1989)) before the U.S. District Court for the Northern District of California, the parties entered into a