



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0149]

RIN 1625-AA00

Safety Zones; Annual Fireworks Displays within the Sector Columbia River Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing safety zones at various locations in the Sector Columbia River Captain of the Port zone. This action is necessary to provide for the safety of life on these navigable waters during fireworks displays. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Columbia River or a designated representative.

DATES: This rule is effective July 4, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0149 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 LCDR Laura Springer, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503-240-9319, e-mail msupdxwwm@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
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 establishing five new fireworks displays to be conducted during the 2017 season. These new safety zones are listed in existing 33 CFR 164.1315. Additionally, the Coast Guard is consolidating two fireworks display safety zones into the table in § 165.1315.

On April 7, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) titled, “Safety Zone; Annual Fireworks Displays within the Sector Columbia River Captain of the Port Zone” (82 FR 16976). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 8, 2017, we received one comment. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**, due to the first newly added fireworks display covered under this rule being conducted on July 4, 2017. Delaying this rule would be impractical as it would prevent the Coast Guard from ensuring the safety of spectators and vessels during the fireworks displays and immediate action is necessary to prevent possible loss of life and property.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the

Port Sector Columbia River has determined that fireworks displays create hazardous conditions for the maritime public because of the large number of vessels near the displays, as well as the noise, falling debris, and explosions that occur during the event. Because firework discharge sites pose a potential hazard to the maritime public, these safety zones are necessary in order to restrict vessel movement and reduce vessel congregation in the proximity of the firework discharge sites.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment stating, “The Coast Guard should establish five new fireworks display safety zones at various locations in the Sector Columbia River Captain of the Port zone. In addition to adding new fireworks display safety zones, this proposed rule making would consolidate existing safety zones into one regulation and eliminate one safety zone listed in two regulations.” In essence, this comment restates what the rule is seeking to accomplish. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The rule establishes five new fireworks display safety zones to revise 33 CFR 165.1315 to include multiple locations in the Sector Columbia River COTP Zone. The added safety zones would cover all waters of the Oregon coast, Tillamook Bay, the Columbia River and its tributaries, and the Clatskanie River, within a 450 yard radius of the launch site at the approximate locations listed in the table located in 33 CFR 165.1315. The safety zones will be enforced at least 1 hour before and 1 hour after the duration of the scheduled event. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zones. Vessel traffic would be able to safely transit around these safety zones which would impact small designated areas of the Oregon coast, Tillamook Bay, the Columbia River and its tributaries, and the Clatskanie River for less than 1 hour during the evening when commercial vessel traffic is normally low. 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 received no comments from the Small Business Administration on this rulemaking. 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 (Public Law 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 contact 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

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 Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination 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 safety zones that are approximately 3 hours in duration and would prohibit entry within 450 yards of the launch sites. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2-1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

§ 165.1314 [Removed]

2. Remove § 165.1314.

3. Revise § 165.1315 to read as follows:

§ 165.1315 Safety Zone; Annual Fireworks Displays within the Sector Columbia River Captain of the Port Zone.

(a) *Safety zones.* The following areas are designated safety zones: Waters of the Columbia River and its tributaries, waters of the Siuslaw River, Yaquina River, Umpqua River, Clatskanie River, Tillamook Bay and waters of the Washington and Oregon Coasts, within a 450 yard radius of the launch site at the approximate locations listed in the following table:

Event Name (typically)	Event Location	Date of Event	Latitude	Longitude
Cinco de Mayo Fireworks	Portland, OR	One day in May	45° 30' 58" N	122° 40' 12" W
Portland Rose Festival Fireworks	Portland, OR	One day in May or June	45° 30' 58" N	122° 40' 12" W
Newport High School Graduation Fireworks	Newport, OR	One day in June	44° 36' 48" N	124° 04' 10" W
Tri-City Chamber of Commerce Fireworks/River of Fire Festival	Kennewick, WA	One day in July	46° 13' 37" N	119° 08' 47" W
Astoria-Warrenton 4 th of July Fireworks	Astoria, OR	One day in July	46° 11' 34" N	123° 49' 28" W
Waterfront Blues Festival Fireworks	Portland, OR	One day in July	45° 30' 42" N	122° 40' 14" W
Florence Independence Day Celebration	Florence, OR	One day in July	43° 58' 09" N	124° 05' 50" W
Oaks Park Association 4 th of July	Portland, OR	One day in July	45° 28' 22" N	122° 39' 59" W
City of Rainier/Rainier Days	Rainier, OR	One day in July	46° 05' 46" N	122° 56' 18" W
Ilwaco July 4 th Committee Fireworks/ Independence Day at the Port	Ilwaco, OR	One day in July	46° 18' 17" N	124° 02' 00" W
Celebrate	Milwaukie, OR	One day in	45° 26' 33" N	122° 38' 44" W

Milwaukie		July		
Splash Aberdeen Waterfront Festival	Aberdeen, WA	One day in July	46° 58' 40" N	123° 47' 45" W
City of Coos Bay July 4 th Celebration/ Fireworks Over the Bay	Coos Bay, OR	One day in July	43° 22' 06" N	124° 12' 24" W
Arlington 4 th of July	Arlington, OR	One day in July	45° 43' 23" N	120° 12' 11" W
East County 4 th of July Fireworks	Gresham, OR	One day in July	45° 33' 32" N	122° 27' 10" W
Port of Cascade Locks 4 th of July Fireworks	Cascade Locks, OR	One day in July	45° 40' 15" N	121° 53' 43" W
Clatskanie Heritage Days Fireworks	Clatskanie, OR	One Day in July	46° 6' 17" N	123° 12' 02" W
Washougal 4 th of July	Washougal, WA	One day in July	45° 34' 32" N	122° 22' 53" W
City of St. Helens 4 th of July Fireworks	St. Helens, OR	One day in July	45° 51' 54" N	122° 47' 26" W
Waverly Country Club 4 th of July Fireworks	Milwaukie, OR	One day in July	45° 27' 03" N	122° 39' 18" W
Hood River 4 th of July	Hood River, OR	One day in July	45° 42' 58" N	121° 30' 32" W
Rufus 4 th of July Fireworks	Rufus, OR	One day in July	45° 41' 39" N	120° 45' 16" W
Winchester Bay 4 th of July Fireworks	Winchester Bay, OR	One day in July	43° 40' 56" N	124° 11' 13" W
Brookings, OR July 4 th Fireworks	Brookings, OR	One day in July	42° 02' 39" N	124° 16' 14" W
Maritime Heritage Festival	St. Helens, OR	One day in July	45° 51' 54" N	122° 47' 26" W
Lynch Picnic	West Linn, OR	One day in July	45° 23' 37" N	122° 37' 52" W
Yachats 4 th of July	Yachats, OR	One day in July	44° 18' 38" N	124° 06' 27" W
Lincoln City 4 th of July	Lincoln City, OR	One day in July	44° 55' 28" N	124° 01' 31" W
July 4 th Party at the Port of Gold Beach	Gold Beach, OR	One day in July	42° 25' 30" N	124° 25' 03" W
Gardiner 4 th of July	Gardiner, OR	One day in July	43° 43' 55" N	124° 06' 48" W
Huntington 4 th of July	Huntington, OR	One day in July	44° 18' 02" N	117° 13' 33" W
Toledo Summer	Toledo, OR	One day in	44° 37' 08" N	123° 56' 24" W

Festival		July	N	
Port Orford 4 th of July	Port Orford, OR	One day in July	42° 44' 31" N	124° 29' 30" W
The Dalles Area Fourth of July	The Dalles, OR	One day in July	45° 36' 18" N	121° 10' 23" W
Roseburg Hometown 4 th of July	Roseburg, OR	One day in July	43° 12' 58" N	123° 22' 10" W
Newport 4 th of July	Newport, OR	One day in July	44° 37' 40" N	124° 02' 45" W
Cedco Inc./The Mill Casino Independence Day	North Bend, OR	One day in July	43° 23' 42" N	124° 12' 55" W
Waldport 4 th of July	Waldport, OR	One day in July	44° 25' 31" N	124° 04' 44" W
Westport 4 th of July	Westport, WA	One day in July	46° 54' 17" N	124° 05' 59" W
The 4 th of July at Pekin Ferry	Ridgefield, WA	One day in July	45° 52' 07" N	122° 43' 53" W
Bandon 4 th of July	Bandon, OR	One day in July	43° 07' 29" N	124° 25' 05" W
Garibaldi Days Fireworks	Garibaldi, OR	One day in July	45° 33' 13" N	123° 54' 56" W
Bald Eagle Days	Cathlamet, WA	One day in July	46° 12' 14" N	123° 23' 17" W
Independence Day at the Fort Vancouver	Vancouver, WA	One Day in July	45° 36' 57" N	122° 40' 09" W
Oregon Symphony Concert Fireworks	Portland, OR	One day in August or September	45° 30' 42" N	122° 40' 14" W
Astoria Regatta	Astoria, OR	One day in August	46° 11' 34" N	123° 49' 28" W
First Friday Milwaukie	Milwaukie, OR	One day in September	45° 26' 33" N	122° 38' 44" W
Leukemia and Lymphoma Light the Night Fireworks	Portland, OR	One day in October	45° 31' 14" N	122° 40' 06" W
Willamette Falls Heritage Festival	Oregon City, OR	One day in October	45° 21' 44" N	122° 36' 21" W
Veterans Day Celebration	The Dalles, OR	One day in November	45° 36' 18" N	121° 10' 34" W

(b) *Special requirements.* Fireworks barges or launch sites on land used in locations stated in this section must display a sign. The sign will be affixed to the port and starboard side of the barge or mounted on a post 3 feet above ground level when on land and in close proximity to

the shoreline facing the water labeled “FIREWORKS-DANGER-STAY AWAY.” This will provide on-scene notice that the safety zone is, or will, be enforced on that day. This notice will consist of a diamond shaped sign, 4-foot by 4-foot, with a 3-inch orange retro-reflective border. The word “DANGER” will be 10-inch black block letters centered on the sign with the words “FIREWORKS” and “STAY AWAY” in 6-inch black block letters placed above and below the word “DANGER” respectively on a white background. An on-scene patrol vessel may enforce these safety zones at least 1 hour prior to the start and 1 hour after the conclusion of the fireworks display.

(c) *Notice of enforcement.* These safety zones will be activated and thus subject to enforcement, under the following conditions: the Coast Guard must receive an Application for Marine Event for each fireworks display; and, the Captain of the Port will cause notice of the enforcement of these safety zones to be made by all appropriate means to provide notice to the affected segments of the public as practicable, in accordance with §165.7(a). The Captain of the Port will issue a Local Notice to Mariners notifying the public of activation and suspension of enforcement of these safety zones. Additionally, an on-scene Patrol Commander may be appointed to enforce the safety zones by limiting the transit of non-participating vessels in the designated areas described in paragraph (a) of this section.

(d) *Enforcement periods.* This section will be enforced at least 1 hour before and 1 hour after the duration of the event each day a barge or launch site with a “FIREWORKS-DANGER-STAY AWAY” sign is located within any of the safety zones identified in paragraph (a) of this section and meets the criteria established in paragraphs (b) and (c) of this section.

(e) *Regulations.* In accordance with the general regulations in subpart C of this part no person may enter or remain in the safety zone created in this section or bring, cause to be brought,

or allow to remain in the safety zone created in this section any vehicle, vessel, or object unless authorized by the Captain of the Port or his designated representative. The Captain of the Port may be assisted by other Federal, State, or local agencies with the enforcement of the safety zone.

(f) *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 Columbia River Command Center via telephone at (503) 861-6211.

§ 165.1316 [Removed]

4. Remove § 165.1316.

Dated: June 16, 2017.

D. F. Berliner,
Captain, U. S. Coast Guard,
Acting Captain of the Port,
Sector Columbia River.

[FR Doc. 2017-13117 Filed: 6/22/2017 8:45 am; Publication Date: 6/23/2017]