



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2022-0833]

RIN 1625-AA87

### Security Zone; Puget Sound, Tacoma, WA

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is extending the effective period of a temporary, 500-yard radius, moving security zone for a vessel carrying Certain Dangerous Cargo (CDC) within Puget Sound. This temporary security zone is needed to protect the vessel, the CDC, and the surrounding waterway from terrorist acts, sabotage, or other subversive acts, accidents, or other events of a similar nature. Entry of vessels or persons into this zone is prohibited while the Motor Vessel (M/V) GREEN RIDGE is in transit unless specifically authorized by the Captain of the Port Puget Sound (COTP) or a designated representative.

**DATES:** This rule is effective without actual notice from October 5, 2022, through October 8, 2022. For the purposes of enforcement, actual notice will be used from October 4, 2022, until 8:45 am on October 5, 2022.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Rob Nakama, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone 206-217-6089, email [SectorPugetSoundWWM@uscg.mil](mailto:SectorPugetSoundWWM@uscg.mil).

### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Puget Sound
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
M/V	Motor Vessel
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

## **II. Background Information and Regulatory History**

On September 30, 2022, the Coast Guard issued a rulemaking that created a temporary security zone effective October 4, 2022. Due to the vessel's new departure date, additional time is needed; as a result, the Coast Guard is establishing through temporary regulations a security zone that will be in effect through October, 8, 2022. The temporary rule was issued 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 it is impracticable. The Coast Guard established this security zone to ensure security of the vessel, the CDC, and the surrounding waterway from terrorist acts, sabotage, or other subversive acts, accidents, or other events of a similar nature and the effective date of the zone must be extended due to the vessel's new departure date. It would be contrary to public interest to postpone extending the temporary security zone.

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 the security zone is needed for immediate action to respond to potential security concerns associated with the vessel.

### **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 COTP has determined that potential hazards associated with the transit of the M/V GREEN RIDGE when loaded will be a security concern within a 500-yard radius of the vessel. This rule is needed to provide for the safety and security the vessel, its cargo, and surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other events of a similar nature while the vessel is transiting within Puget Sound.

### **IV. Discussion of the Rule**

The Coast Guard is establishing a 500-yard radius temporary moving security zone around the M/V GREEN RIDGE. The zone for the vessel is effective from October 4, 2022, through October 8, 2022. It will be subject to enforcement this entire period unless the COTP determines it is no longer needed, in which case the Coast Guard will inform mariners via Notice to Mariners. The duration of the zone is intended to protect the vessel, the cargo, and the surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other events of a similar nature. No vessel or person will be permitted to enter the security 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 size, duration, and location of the security zone. This rule will impact a small designated area of 500-yards around the moving vessel while transiting from Terminal 7 in Tacoma, WA, to Admiralty Inlet, WA. Moreover, the rule allows 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 security 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 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 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 moving security zone lasting for the duration of time that the M/V GREEN RIDGE is transiting while loaded with cargo. It will prohibit entry within a 500 yard radius of the M/V GREEN RIDGE while the vessel is transiting loaded within Puget Sound. It is categorically excluded from further review under L60(d) in 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 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. 00170.1, Revision No. 01.2.

2. Add § 165.T13-0833 to read as follows:

**§ 165.T13-0833 Security Zone; Puget Sound, Tacoma, WA.**

(a) *Location.* The following area is a security zone: All navigable waters encompassing a 500-yard radius around the Motor Vessel (M/V) GREEN RIDGE while the vessel is underway from Terminal 7 in Tacoma, WA, until the vessel reaches a pier in Admiralty Bay, WA.

(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 security zone.

(c) *Enforcement period.* This section will be enforced from October 4, 2022, through October 8, 2022.

(d) *Regulations.* (1) The general regulations in § 165.33 apply. Entry into the zone is prohibited unless authorized by the COTP or a designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF Channel 16 or at 206-217-6051. Those in the security zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and dates for the security zone. The security zone may be suspended early at the discretion of the COTP.

Dated: October 4, 2022.

**P. M. Hilbert,**

*Captain, U.S. Coast Guard,*

*Captain of the Port Puget Sound.*

[FR Doc. 2022-21950 Filed: 10/5/2022 8:45 am; Publication Date: 10/7/2022]