



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2023-0843]

RIN 1625-AA00

### Safety Zone; Fireworks Display; Hood River, Hood River, Oregon

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain waters of the Columbia River. This action is necessary to provide for the safety of life on these navigable waters near Hood River, Oregon, during a fireworks display on December 31, 2023. This regulation prohibits persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector Columbia River or a designated representative.

**DATES:** This rule is effective from 7:30 to 9 p.m. on December 31, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0843 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email Lieutenant Carlie Gilligan, Waterways Management Division, Sector Columbia River, Coast Guard; telephone 503-240-9319, e-mail [SCRWWM@uscg.mil](mailto:SCRWWM@uscg.mil).

### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector Columbia River
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

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

On August 15, 2023, the Hood River Fireworks, LLC notified the Coast Guard that it will be conducting a fireworks display from 8 to 8:30 p.m. on December 31, 2023. The fireworks are to be launched from Hood River Spit, approximately 1000 feet south of the Columbia River in Hood River, OR. In response, on November 2, 2023, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Fireworks Display; Hood River, Hood River, OR (88 FR 75244). 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 December 4, 2023, we received 8 comments, that are discussed in section IV below.

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 respond to the potential safety hazards associated with the fireworks display that will impact navigation along the Hood River.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Columbia River (COTP) has determined that potential hazards associated with the fireworks to be used in this December 31, 2023, display will be a safety concern for anyone within a 1000-foot radius of the barge. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

#### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received eight comments on our NPRM published November 2, 2023. Of them, six were in support of the proposed rule while the remaining two were unrelated to the establishment of the safety zone. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 7:30 to 9 p.m. on December 31, 2023. The safety zone will cover all navigable waters within 1000 feet of the fireworks launch site in Hood River, OR. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 8 to 8:30 p.m. 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. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration and time of day of the regulated area. The safety zone impacts approximately a 1000-foot area at the intersection of the Columbia and Hood Rivers and is not anticipated to exceed 1.5 hours in duration. Thus, restrictions on vessel movement within that particular area

are expected to be minimal. Moreover, under certain conditions vessels may still transit through the safety zone when permitted by the COTP. The Coast Guard will issue a Notice to Mariners about the zone, and the rule will 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 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 1.5 hours that will prohibit entry within 1000 feet of a launch site in Hood River, OR. 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 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, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T13-0843 to read as follows:

**§ 165.T13-0843 Safety Zone; Fireworks Display, Hood River, Hood River, OR.**

(a) *Location.* The following area is a safety zone: All navigable waters within 1000 feet of a fireworks launch site in Hood River, OR. The fireworks launch site will be at the approximate point of 45°42'51.20"N 121°30'32.18"W.

(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 Columbia River (COTP) in the enforcement of the safety zone.

*Participant* means all persons and vessels registered with the event sponsor as a participant in the fireworks display.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, all non-participants 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 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.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 7:30 to 9 p.m. on December 31, 2023. 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.

Dated: December 5, 2023.

J. W. Noggle,

Captain, U.S. Coast Guard,

Captain of the Port, Sector Columbia River.

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