

tampering), except as determined by the Director of the Office of Consumer Litigation.

(10) Nonmonetary civil cases, including injunction suits, declaratory judgment actions, and applications for inspection warrants, and cases seeking civil penalties including but not limited to those arising under statutes enforced by the Food and Drug Administration, the Consumer Product Safety Commission, the Federal Trade Commission, and the National Highway Traffic Safety Administration (relating to odometer tampering), except as determined by the Director of the Office of Consumer Litigation.

(11) Administrative claims arising under the Federal Tort Claims Act.

Section 5. Civil Investigative Demands

Authority relating to Civil Investigative Demands issued under the False Claims Act is hereby delegated to United States Attorneys in cases that are delegated or assigned as monitored to their respective components. In accordance with guidelines provided by the Assistant Attorney General, each United States Attorney must provide notice and a report of Civil Investigative Demands issued by the United States Attorney. When a case is jointly handled by the Civil Division and a United States Attorney's Office, the Civil Division will issue a Civil Investigative Demand only after requesting the United States Attorney's recommendation.

Section 6. Adverse Decisions

All final judicial decisions adverse to the Government involving any direct reference or delegated case must be reported promptly to the Assistant Attorney General, Civil Division, attention Director, Appellate Staff. Consult title 2 of the United States Attorney's Manual for procedures and time limitations. An appeal cannot be taken without approval of the Solicitor General. Until the Solicitor General has made a decision whether an appeal will be taken, the Government attorney handling the case must take all necessary procedural actions to preserve the Government's right to take an appeal, including filing a protective notice of appeal when the time to file a notice of appeal is about to expire and the Solicitor General has not yet made a decision. Nothing in the foregoing directive affects this obligation.

Section 7. Supersession

This directive supersedes Civil Division Directive No. 14-95 regarding redelegation of the Assistant Attorney General's authority in Civil Division cases to Branch Directors, heads of offices and United States Attorneys.

Section 8. Applicability

This directive applies to all cases pending as of the date of this directive and is effective immediately.

Section 9. No Private Right of Action

This directive consists of rules of agency organization, procedure, and practice and does not create a private right of action for any private party to challenge the rules or actions taken pursuant to them.

Dated: March 8, 2010.

Tony West,

Assistant Attorney General, Civil Division.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2010-0143]

RIN 1625-AA00

Safety Zones; March Fireworks Displays Within the Captain of the Port Puget Sound Area of Responsibility (AOR)

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The U.S. Coast Guard is establishing two safety zones on the waters of Puget Sound, WA for fireworks displays. This action is necessary to provide for the safety of life on navigable waters during the fireworks displays. Entry into, transit through, mooring, or anchoring within these zones is prohibited unless authorized by the Captain of the Port, Puget Sound or Designated Representative.

DATES: *Effective Date:* this rule is effective in the CFR from March 24, 2010 until 12:01 a.m. March 28, 2010. This rule is effective with actual notice for purposes of enforcement beginning 7 p.m. March 6, 2010, unless canceled sooner by the Captain of the Port.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0143 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0143 in the "Keyword" box, and then clicking "Search." They are 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 temporary rule, call or e-mail ENS Ashley M. Wanzer, Waterways Management, Sector Seattle, Coast Guard; telephone 206-217-6175, e-mail SectorSeattleWWM@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final 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 because it is contrary to public interest to delay the effective date of this rule. Delaying the effective date by first publishing an NPRM would be contrary to the safety zone's intended objectives since immediate action is needed to protect persons and vessels against the hazards associated with fireworks displays on navigable waters. Such hazards include premature detonations, dangerous projectiles and falling or burning debris.

For the same reasons as above, 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**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

Background and Purpose

Fireworks displays are frequently held from locations on or near the navigable waters of the United States. The potential hazards associated with fireworks displays are a safety concern during such events. The purpose of this rule is to promote public and maritime safety during fireworks displays, and to protect mariners transiting the area from the potential hazards associated with the fireworks displays, such as the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is needed to ensure safety on the waterway during the scheduled events.

This rule will control the movement of all vessel operators in a regulated area surrounding the fireworks events indicated in this Temporary Final Rule.

Entry into these zones by all vessel operators or persons will be prohibited

unless authorized by the Captain of the Port or Designated Representative. The Captain of the Port may be assisted by other federal, state, or local agencies as needed.

Discussion of Rule

The U.S. Coast Guard is establishing temporary safety zones to allow for safe fireworks displays. A safety zone for the Farmer's 100th Anniversary will be enforced from 7 p.m. to 11:30 p.m. on March 6, 2010 on all waters in the proximity of Pier 66, Elliot Bay, WA extending to a 400 foot radius from the launch site at 47°36'31.54" N 122°21'06.00" W. The safety zone for the General Construction Event will be enforced from 6 p.m. to 11:30 p.m. on March 27, 2010 on all waters in the proximity of Pier 66, Elliot Bay, WA extending to a 600 foot radius from the launch site at 47°36' 55.00" N 122°21'05.80" W. These safety zones do not extend onto land.

These events may result in a number of vessels congregating near fireworks launching barges. These safety zones are needed to protect watercraft and their occupants from safety hazards associated with fireworks displays. The Captain of the Port, Puget Sound may be assisted by other federal and local agencies in the enforcement of these safety zones. Vessels will be allowed to transit the waters of the Puget Sound outside the safety zone. Notification of the temporary safety zone will be provided to the public via marine information broadcasts.

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. This rule is not a significant regulatory action because it is short in duration and does not affect a large area or a critical waterway.

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 temporary final rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit a portion of the affected waterways while this rule is enforced. These safety zones will not have significant economic impact on a substantial number of small entities for the following reasons. This temporary rule will be in effect for short periods of time, when vessel traffic volume is low and is comprised of mostly small pleasure craft. If safe to do so, traffic will be allowed to pass through these safety zones with the permission of the Captain of the Port or Designated Representative.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can 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 M16475.1D, 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 establishing temporary safety zones. 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. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T13-132 to read as follows:

§ 165.T13-132 Safety Zones; March Fireworks displays within the Captain of the Port, Puget Sound Area of Responsibility (AOR).

(a) *Safety Zones.* The following areas are designated safety zones:

(1) *Farmer's 100th Anniversary, Elliot Bay, WA*

(i) *Location.* All waters in the proximity of Pier 66, Elliot Bay, WA in an area extending to a 400 foot radius from the launch site at 47°36'31.54" N 122°21'06.00" W.

(ii) *Enforcement time and date.* 7 p.m. to 11:30 p.m. on March 6, 2010.

(2) *General Construction Event, Elliot Bay, WA*

(i) *Location.* All waters in the proximity of Pier 66, Elliot Bay, WA in an area extending to a 600 foot radius from the launch site at 47°36'55.00" N 122°21'05.80" W.

(ii) *Enforcement time and date.* 6 p.m. to 11:30 p.m. on March 27, 2010.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel operator may enter, transit, moor, or anchor within these safety zones, except for vessels authorized by the Captain of the Port or Designated Representative.

(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 either the on-scene patrol craft on VHF Ch 13 or Ch 16 or the Coast Guard Sector Seattle Joint Harbor Operations Center (JHOC) via telephone at (206) 217-6002.

(d) *Effective Period.* This rule is effective from 7 p.m. March 6, 2010 through 12:01 a.m. March 28, 2010 unless canceled sooner by the Captain of the Port.

Dated: March 5, 2010.

S.E. Englebert,

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

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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 383

[Docket No. 2009-2 CRB New Subscription II]

Digital Performance Right in Sound Recordings and Ephemeral Recordings for a New Subscription Service

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges are publishing final regulations setting the rates and terms for the use of sound recordings in transmissions made by new subscription services and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2011, and ending on December 31, 2015.

DATES: These regulations become effective on January 1, 2011.

FOR FURTHER INFORMATION CONTACT: Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707-7658 or by e-mail at crb@loc.gov.

SUPPLEMENTARY INFORMATION: Section 114(f)(2)(C) of the Copyright Act, title 17 of the United States Code, allows a new type of eligible nonsubscription service or a new subscription service on which sound recordings are performed that is or is about to become operational to file a petition with the Copyright Royalty Judges ("Judges") for the purpose of determining reasonable terms and rates. 17 U.S.C. 114(f)(2)(C). Section 112(e) allows the making of ephemeral reproductions for the purpose of facilitating certain digital audio transmissions, including those made by new subscription services. 17 U.S.C. 112(e). Upon receipt of a petition filed pursuant to section 114(f)(2)(C), the Judges are required to commence a proceeding to determine said reasonable terms and rates. 17 U.S.C. 804(b)(3)(C)(ii). The Judges have conducted one proceeding pursuant to these provisions. See 70 FR 72471, 72472 (December 5, 2005) (after receipt of petition, commencing proceeding to determine rates and terms for a new type of subscription service that "performs sound recordings on digital audio channels programmed by the licensee for transmission by a satellite television distribution service to its residential customers, where the audio channels are bundled with television