

Entry into this zone will be prohibited unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other federal, state, or local agencies.

Discussion of Proposed Rule

This proposed rule, for security and safety concerns, would control vessel movement in a regulated area surrounding large passenger vessels. As a result of the request for comments in our TFR creating § 165.T13-002, the Coast Guard received several comments regarding the scope and impact of the TFR. We have considered these comments in drafting this proposed rule. The following is a summary of the comments the Coast Guard received.

One letter voiced concerns that the security and safety zone established in the TFR denied the use of the commercial and recreational facilities at Bell Harbor Marina, Shilshole Bay Marina, Fisherman's Terminal and the Maritime Industrial Center when the security and safety zone was enforced. In both the TFR and this proposed rule, the Coast Guard is attempting to balance adequate security around large passenger vessels against the impacts these security and safety zones have on waterway users. In response to this comment, the Coast Guard has made two changes to this proposed rule. First, the definition of Large Passenger Vessel in paragraph (b)(2) of this proposed rule was modified and now excludes small passenger vessels (vessels inspected and certificated under 46 CFR Subchapter T). In other words, the number of vessels with security and safety zones around them will decrease. Second, when a large passenger vessel is moored, the exclusionary zone in this proposed rule will shrink from 100 yards to 25 yards.

The Coast Guard received one comment regarding the "rules of the road." The commenter stated that they believed that the TFR deviated from specific navigation rules, which apply to the "stand-on" vessel. The Coast Guard disagrees. Like the TFR, this proposed rule specifically states that the Navigation Rules shall apply at all times within a large passenger vessel security and safety zone. The duties of a stand-on vessel are in part to keep her course and speed. Both the TFR and this proposed rule require vessels operating within the large passenger security and safety zone to operate at the minimum speed necessary to maintain a safe course. Hence, if a vessel is within the large passenger security and safety zone and is a stand-on vessel, the requirements of the navigation rules and this proposed rule are the same—to

maintain course and speed unless action to avoid a collision is necessary.

We also received comments in reference to the non-compliance or inability for some vessels without VHF radios to communicate as required with the large passenger vessel master and/or official patrol. The commenters also noted that required communication with large passenger vessels entering and exiting marinas rarely occurred and caused a distraction for the large passenger vessels during critical evolutions. Commenters also stated the required radio communications were unnecessary and would clutter an important working channel. A vessel is only required to contact the large passenger vessel master if it desires to operate within 100 yards of a large passenger vessel that is underway or at anchor. Vessels desiring to operate within 100 yards of a large passenger vessel that is underway or at anchor should first contact the on-scene official patrol. Once moored the exclusionary zone around large passenger vessels will shrink from 100 yards to 25 yards.

Many comments discuss the need for greater public education and awareness efforts. The Coast Guard intends to continue its practice of notifying the public by a variety of means, including Broadcast Notice to Mariners, Local Notice to Mariners, posting on Marine Safety Office Puget Sound's Web site, press releases, and a telephone line manned 24 hours a day to answer questions.

This proposed rule would be enforced from time to time by the Captain of the Port Puget Sound for such time as he deems necessary to prevent damage or injury to any vessel or waterfront facility, to safeguard ports, harbors, territories, or waters of the United States or to secure the observance of the rights and obligations of the United States. The Captain of the Port Puget Sound will cause notice of the activation of this security and safety zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public, including Marine Safety Office Puget Sound's Internet web page located at <http://www.uscg.mil/d13/units/msopuget>. In addition, Marine Safety Office Puget Sound maintains a telephone line that is manned 24 hours a day, 7 days a week. The public can contact Marine Safety Office Puget Sound at (206) 217-6200 or (800) 688-6664 to obtain information concerning enforcement of this rule. For the purpose of this regulation, a large passenger vessel means (i) any cruise ship over 100 feet in length carrying passengers for hire, and (ii) any auto ferries and passenger ferries over 100

feet in length carrying passengers for hire such as the Washington State Ferries, M/V COHO and Alaskan Marine Highway Ferries. Large Passenger Vessel does not include vessels inspected and certificated under 46 CFR Subchapter T such as excursion vessels, sight seeing vessels, dinner cruise vessels, and whale watching vessels.

All vessels within 500 yards of a large passenger vessel shall operate at the minimum speed necessary to maintain a safe course, and shall proceed as directed by the official patrol. No vessel, except a public vessel as defined in paragraph (b)(7), is allowed within 100 yards of a large passenger vessel that is underway or at anchor, unless authorized by the official patrol or large passenger vessel master. No vessel or person is allowed within 25 yards of a large passenger vessel that is moored. Vessels requesting to pass within 100 yards of a large passenger vessel that is underway or at anchor must contact the official patrol on VHF-FM channel 16 or 13. The on-scene official patrol or large passenger vessel master may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of a large passenger vessel that is underway or at anchor in order to ensure a safe passage in accordance with the Navigation Rules. In addition, measures or directions issued by Vessel Traffic Service Puget Sound pursuant to 33 CFR Part 161 shall take precedence over the regulations in this proposed rule. Similarly, vessels at anchor may be permitted to remain at anchor within 100 yards of passing large passenger vessel. Public vessels for the purpose of this Rule are vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

Regulatory Evaluation

This proposed 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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this proposed rule would restrict access to the regulated area, the effect of this proposed rule will not be