

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 Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation.

Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under those sections. Under figure 2–1, paragraph (34)(h), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 100.35–T11–024 to read as follows:

##### § 100.35–T11–024 San Francisco Giants Fireworks Display, San Francisco Bay, CA.

(a) *Regulated Area.* A regulated area is established for the waters of San Francisco Bay surrounding a barge used as the launch platform for a fireworks display to be held after a San Francisco Giants baseball game. During the loading of the fireworks barge, during the transit of the fireworks barge to the display location, and until the start of the fireworks display, the regulated area encompasses the navigable waters around and under the fireworks barge within a radius of 100 feet. During the 20-minute fireworks display, the regulated area increases in size to encompass the navigable waters around and under the fireworks launch barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 9 a.m. on June 21, 2005, and will take place at Pier 50 in San Francisco. Towing of the barge from Pier 50 to the display location is scheduled to take place between 8 p.m. and 10 p.m. on June 21, 2005. During the fireworks display, scheduled to start after the baseball game ends (approximately 10:30 p.m. on June 21, 2005), the barge will be located approximately 1,000 feet off of San Francisco Pier 48 in position 37°46′57.2″ N, 122°23′58.0″ W.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group San Francisco.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Group San Francisco with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special Local Regulations.*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by an Official Patrol.

(d) *Effective Period.* This section will be effective from 9 a.m. to 11 p.m. on

June 21, 2005. If the event concludes prior to the scheduled termination time, the Coast Guard will cease enforcement of the special local regulations and will announce that fact via Broadcast Notice to Mariners.

Dated: June 9, 2005.

**K.J. Eldridge,**

*Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.*

[FR Doc. 05–12140 Filed 6–20–05; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 165

[CGD01–05–052]

RIN 1625–AA00

##### Safety Zone: Celebrate the Fourth/Salem Fireworks—Salem, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Salem Celebrate the Fourth fireworks on July 4, 2005 in Salem, Massachusetts. The safety zone will prohibit entry into or movement within this portion of Salem Harbor during its effective period.

**DATES:** This rule is effective from 8:30 p.m. EDT on July 4, 2005 to 10 p.m. EDT on July 4, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01–05–052 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

##### FOR FURTHER INFORMATION CONTACT:

Chief Petty Officer Paul English, Sector Boston, Waterways Safety and Response Division, at (617) 223–5750.

##### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. A notice of proposed rulemaking (NPRM) was not published for this regulation because the logistics with respect to the fireworks presentation were not determined with sufficient time to draft and publish an NPRM. Publishing an NPRM was impracticable; any delay

encountered in this regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of Salem Harbor during the fireworks event and to provide for the safety of life on navigable waters.

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**. Any delay encountered in this regulation's effective date would be contrary to public interest since the safety zone is needed to prevent traffic from transiting a portion of Salem Harbor during the fireworks display thus ensuring that the maritime public is protected from any potential harm associated with such an event. The zone should have minimal negative impact on vessel transits due to the fact that vessels will be excluded from the area for only 1.5 hours, and vessels will be able to transit in the majority of Salem Harbor during the event.

#### **Background and Purpose**

This temporary rule establishes a safety zone in Salem Harbor within a four hundred yard radius of the fireworks launch site located on Derby Wharf.

The zone will temporarily restrict movement within this portion of Salem Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the zone during the effective period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via safety marine information broadcasts and local notice to mariners.

#### **Discussion of Rule**

The safety zone is in effect from 8:30 p.m. EDT until 10 p.m. EDT July 4, 2005. Marine traffic may transit safely outside of the safety zone during the event thereby allowing navigation in the majority of Salem Harbor except the portion effected by the zone described herein. Because of the limited time-frame of the effective period and because the zone leaves the majority of Salem Harbor open for navigation, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via Local Notice to Mariners and marine information broadcasts.

#### **Regulatory Evaluation**

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

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation of the regulatory policies and procedures of DHS is unnecessary.

Although this rule prevents traffic from transiting a portion of Salem Harbor during the effective period, the effects of this rule will not be significant for several reasons: Vessels will be excluded from the area of the safety zone for only 1.5 hours, vessels will be able to operate in the majority of Salem Harbor during the effective period and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

#### **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 rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Salem Harbor from 8:30 p.m. EDT to 10 p.m. EDT on July 4, 2005.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only 1.5 hours, vessel traffic can safely pass around the safety zone, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities

in understanding the rule so that they could 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).

#### **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 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 effect 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 Commandant Instruction M16475.ID,

which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from Further environmental documentation. This rule fits the category selected from paragraph (34)(g), as it would establish a safety zone.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be 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 measure, 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. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 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 temporary section 165.T05–052 to read as follows:

### § 165.T05–052 Safety Zone: Celebrate the Fourth/Salem Fireworks—Salem, Massachusetts.

(a) *Location.* The following area is a safety zone:

All waters of Salem Harbor in a four hundred yard radius of the fireworks launch site located on Derby Wharf.

(b) *Effective Date.* This section is effective from 8:30 p.m. EDT until 10 p.m. EDT on July 4, 2005.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and Federal law enforcement vessels.

Dated: June 9, 2005.

**James L. McDonald,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. 05–12118 Filed 6–20–05; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[CGD01–05–017]

RIN 1625–AA00

### Safety Zone: Macy's July 4th Fireworks, East River and Upper New York Bay, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is modifying the permanent safety zone for the annual Macy's July 4th fireworks display found at 33 CFR 165.166 to accommodate an added fireworks discharge site near Liberty Island. This action is necessary to provide for the safety of life on navigable waters during the event. This will restrict vessel traffic in portions of the East River, Hudson River, and Upper New York Bay during the duration of the Macy's July 4th fireworks event.

**DATES:** This rule is effective June 21, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–05–017) and are available for inspection or copying at room 203, Coast Guard Sector New York, 212 Coast Guard Drive, Staten Island, New York 10305 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander E. Morton, Waterways Management Division, Coast Guard Sector New York (718) 354–4191.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On April 11, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone: Macy's July 4th Fireworks, East River and Upper New York Bay, NY" in the **Federal Register** (70 FR 18343). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for