

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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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 M16475.1D and Department of Homeland Security Management Directive 5100.1, 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 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 (32)(e), of the Instruction, from further environmental documentation. Paragraph (32)(e) is applied to this rule because it relates to the promulgation of operating regulations or procedures for drawbridges. Under figure 2–1, paragraph (32)(e), 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 117

Bridges.

### Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From July 24, 2006 through September 30, 2006, § 117.591 is amended by suspending paragraph (e) and adding a temporary paragraph (g), to read as follows:

#### § 117.591 Charles River.

\* \* \* \* \*

(g) The draw of the Department of Conservation and Recreation, (Craigie Bridge), mile 1.0, at Boston, shall operate as follows:

(1) The draw shall open on signal; except that, from 12 p.m. to 8 p.m. on Saturday and Sunday, the draw shall open on signal on the half-hour only, except as stated in paragraph (a)(1) of this section.

(2) Monday through Friday from 6 a.m. to 10 a.m. and 3 p.m. to 7 p.m., the draw need not open for the passage of vessel traffic, except as stated in paragraph (a)(1) of this section.

Dated: July 24, 2006.

**Timothy S. Sullivan,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01–06–098]

RIN 1625–AA00

#### Safety Zone; Vermont Air National Guard 60th Anniversary Air Show, Burlington Bay, Burlington, VT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Vermont Air National Guard 60th Anniversary Air Show on August 18 and 19, 2006 in Burlington, Vermont. This zone will temporarily close all waters in Burlington Bay from Lone Rock Point 44°29'43" N 073°14'56" W SE to Oakledge Park 44°27'15" N 073°14'52" W, thence from the Burlington South break wall light 44°28'12" N 073°13'32" W extending due east to the shore, thence from the Burlington north break wall 44°28'50" N 073°13'47" W and extending due east to the shore. The safety zone, which temporarily prohibits entry into or movement within this portion of Burlington Bay, is necessary to safeguard the public from possible hazards associated with an air show. Entry into this zone by any vessel is prohibited unless specifically authorized by the Captain of the Port, Northern New England or his designated representative.

**DATES:** This rule is effective from 10 a.m. until 4 p.m. on August 18, 2006 and from 8 a.m. until 6 p.m. EDT on August 19, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [CGD01–06–098] and are available for inspection or copying at U.S. Coast Guard Sector Northern New England, 259 High Street, South Portland, ME 04106 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

LTJG Stephanie Forbes at Sector Northern New England, (207) 767-0313 or LTJG Jarrett Bleacher at (207) 742-5421.

**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. The Coast Guard was not presented with the logistical information for the Vermont Air National Guard 60th Anniversary Air Show in sufficient time to draft and publish an NPRM. Publishing an NPRM and delaying the effective date would be contrary to the public interest since immediate action is needed to protect the maritime public from the potential hazards associated with high-speed, high-performance, low-flying aircraft conducting acrobatic demonstrations above the waters of Burlington Bay.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds, for the same reasons, that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

**Background and Purpose**

The Vermont National Guard is holding a 60th Anniversary Air Show over the waters of Burlington Bay. This rule establishes a safety zone temporarily closing all waters in Burlington Bay from Lone Rock Point 44°29'43" N 073°14'56" W SE to Oakledge Park 44°27'15" N 073°14'52" W, thence from the Burlington South break wall light 44°28'12" N 073°13'32" W extending due east to the shore, thence from the Burlington north break wall 44°28'50" N 073°13'47" W and extending due east to the shore. This zone is necessary to protect the life and property of the maritime public from the potential dangers posed by this event. It will protect the public by prohibiting entry into or movement within the proscribed portion of Burlington Bay during the Vermont National Guard 60th Anniversary Air Show.

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 and during the effective period via marine safety information broadcasts and Local Notice to Mariners.

**Discussion of Rule**

This rule is effective from 10 a.m. until 4 p.m. on August 18, 2006 and from 8 a.m. until 6 p.m. on August 19,

2006. This safety zone is needed to safeguard mariners from the hazards associated with low-flying, high-speed, and high-performance acrobatic aircraft performing above the designated waters in Burlington Bay. During the effective period of the safety zone, vessel traffic will be restricted in a portion of Burlington Bay. Entry into this zone by any vessel is prohibited unless specifically authorized by the Captain of the Port, Northern New England or his designated representative.

The Captain of the Port anticipates negligible negative impact on vessel traffic from this temporary safety zone as it will be in effect for limited hours during only one weekend. Additionally, extensive advanced notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, local port safety committee meetings, area newspapers, and electronic Marine Safety Information Bulletins. These advisories will afford large commercial traffic substantial advance notice to schedule around the event. It has been determined that the enhanced safety to life and property provided by this rule greatly outweighs any potential negative impacts. Public notifications will be made during the entire effective period of this safety zone 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.

The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. The effect of this rule will not be significant for the following reasons: the duration of the safety zone is for a limited number of hours and during the span of only one weekend. Vessels will be permitted to transit and navigate in waters adjacent to this safety zone, minimizing any adverse impact. Additionally, this rule will be entered into the Local Notice to Mariners, and extensive maritime advisories will be broadcast.

**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 and operators of vessels intending to transit in the vicinity of Burlington, Vermont. The safety zone will not have a significant impact on a substantial number of small entities as the duration of the safety zone is for a limited number of hours and during the span of only one weekend. Vessels will be permitted to transit and navigate in waters adjacent to this safety zone, minimizing any adverse impact.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call LTJG Stephanie Forbes at (207) 767-0313 or LTJG Jarrett Bleacher at (207) 742-5421, Sector Northern New England, Waterways Management Division.

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 affect 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 and Department of Homeland Security Management Directive 5100.1, 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 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 establishes 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 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. Chapter 701; 50 U.S.C 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T01–098 to read as follows:

#### § 165.T01–098 Safety Zone: Vermont Air National Guard 60th Anniversary Air Show, Burlington Bay, Burlington, VT.

(a) *Location.* The following area is a safety zone: all waters in Burlington Bay from Lone Rock Point 44°29'43" N 073°14'56" W SE to Oakledge Park 44°27'15" N 073°14'52" W, thence from the Burlington South break wall light 44°28'12" N 073°13'32" W extending due east to the shore, thence from the Burlington north break wall 44°28'50" N 073°13'47" W and extending due east to the shore. All vessels are restricted from entering this area.

(b) *Effective Date.* This section is effective from 10 a.m. until 4 p.m. on August 18, 2006 and from 8 a.m. until 6 p.m. on August 19, 2006.

(c) *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 (COTP).

(d) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the Captain of the Port (COTP), Northern New England or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: July 18, 2006.

**Stephen P. Garrity,**  
Captain, U.S. Coast Guard, Captain of the Port, Northern New England.

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