

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[CGD01-05-011]

RIN 1625-AA00, AA87

**Safety and Security Zones; TOPOFF 3, New London, CT**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rulemaking.

**SUMMARY:** The Coast Guard is establishing safety and security zones around waterfront areas in New London, Connecticut during the Congressionally-mandated third Top Officials exercise. These zones are necessary to provide for the safety and security of participants in the exercise, the surrounding shore and maritime communities from potential sabotage or subversive acts aimed at this large scale, high profile exercise. These temporary safety and security zones prohibit persons or vessels from entering unless authorized by the Captain of the Port, Long Island Sound or designated representative.

**DATES:** This rule is effective from 12:01 a.m. on April 2, 2005 until 11:59 p.m. on April 10, 2005.

**ADDRESSES:** You may mail comments and related material to Waterways Management Division, Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT 06512. Coast Guard Group/Marine Safety Office Long Island Sound maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Group/Marine Safety Office Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant A. Logman, Chief, Waterways Management Division, Coast Guard Group/Marine Safety Office Long Island Sound at (203) 468-4429.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

On February 18, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Safety and Security Zones; TOPOFF 3, New London, CT." **Federal Register** (69 FR 8309). No comments were received on the proposed rule. No public hearing was requested, and none was held.

In accordance with 5 U.S.C. (d)(3), the Coast Guard finds good cause for making this rule effective less than 30 days after publication in the **Federal Register**. Final plans for this exercise were not finalized with sufficient time to publish an NPRM and Final Rule in accordance with the publication requirements of 5 U.S.C. 553. However, the Coast Guard wished to provide the public with the opportunity to comment on this rulemaking. By doing so, the timeframe for the publication of the final rule has been reduced to less than 30 days. The delay inherent in publication of this final rule 30 days in advance of its effective date is contrary to the public interest and impracticable, as immediate action is needed to protect participants in this exercise, scheduled for April 4-10, 2005. The Coast Guard Group, Marine Safety Office Long Island Sound will make this Final Rule widely available to the maritime community and general public through notification in the Local Notice to Mariners, marine safety information bulletins and through local waterways users groups.

**Background and Purpose**

The third Top Officials (TOPOFF) exercise, will take place from April 4 through April 10, 2005. TOPOFF 3 is the third of the Congressionally-mandated weapons of mass destruction (WMD) national exercise series. TOPOFF 3 will use a series of exercise activities of increasing complexity, and will simulate a terrorist WMD campaign with simulated attacks occurring in the States of Connecticut and New Jersey. Additional TOPOFF activities will be conducted within the United Kingdom as part of a partnership to strengthen security in both nations. The specific scenarios for the exercise are still being developed. In New London, Connecticut, these activities will take place mainly in the vicinity of Fort Trumbull State Park. Additional activities associated with this exercise will take place in the vicinity of Ocean Beach in New London.

There will be approximately 800 participants in TOPOFF 3, from various federal, state and local agencies. Numerous high-level public officials will participate. Participants will be transported to Fort Trumbull via land and water transportation. Due to the high visibility and high profile of the participants, safety and security zones are warranted to safeguard participants and the surrounding community from sabotage or other subversive acts, accidents or other hazards of a similar nature.

**Discussion of Comments and Changes**

No comments were received in response to the NPRM, and no changes have been made to the final rule.

**Discussion of Rule**

This rule creates safety and security zones surrounding Fort Trumbull State Park and Ocean Beach in New London, Connecticut. The safety and security zones established herein are effective from April 2, 2005 through April 10, 2005. This effective period covers the scheduled exercise dates from April 4 through April 10, 2005, and provides for an additional period leading up to the exercise to provide for monitoring and searching of the area being utilized for the exercise.

The safety and security zone surrounding Fort Trumbull State Park encompass the waters of the Thames River approximately 100-yards from Fort Trumbull State Park and the Parks piers. The Fort Trumbull Safety and Security Zone includes all waters of the Thames River bounded as follows: beginning at the end of the New England Seafood pier at approximate position 41°20'49.7" N, 072°05'41.6" W, thence running in an easterly direction to position 41°20'50.9" N, 072°05'36.5" W, thence in a southeasterly direction to position 41°20'43.1" N, 072°05'19.7" W, then south to position 41°20'34.9" N, 072°05'19.6" W, thence southwesterly to a point on the western shore of the Thames River at position, 41°20'26.6" N, 072°05'38.9" W, thence northerly along the western shore of the Thames River to a position on the shore of the Thames River at position 41°20'29.3" N, 072°05'39.7" W, thence along the shore of the Thames River to the point of beginning.

The safety and security zone surrounding Ocean Beach encompass the waters of Long Island Sound approximately 100-yards off of Ocean Beach. The Ocean Beach Safety and Security Zone includes all waters of Long Island Sound bounded by lines as follows: beginning at a position on the shore of New London Connecticut at position 41°18'31.4" N, 072°05'39.6" W, thence running southeasterly to position 41°18'29.3" N, 072°05'36.9" W, thence running position southwesterly to position 41°18'11.8" N, 072°06'2.8" W, thence running northwesterly to position 41°18'14.5" N, 072°06'6.1" W, thence running northeasterly along the shore to the point of beginning.

Entry into these zones is prohibited unless authorized by the Captain of the Port, Long Island Sound. Any violation of the safety and security zones described herein is punishable by,

among others, civil and criminal penalties, in rem liability against the offending vessel, and license sanctions.

### 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). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: vessels may transit in all areas of the Thames River and Long Island Sound other than those areas covered by the safety and security zones established herein. Vessels wishing to transit to Fort Trumbull Marina may request permission to transit through the Fort Trumbull and Ocean Beach Safety and Security Zones from the Captain of the Port, Long Island Sound or their on-scene representatives. Commercial fishing vessels wishing to operate in the zones may request permission to enter the zones in advance of their effective dates from the COTP, Long Island Sound. Usage of Ocean Beach for swimming in April is extremely minimal; persons wishing to use Ocean Beach for swimming can utilize other beaches in the New London area. Moreover, there is no anticipated economic impact arising from the closure of the waters off of Ocean Beach to swimming. Additionally, there will be extensive advanced notifications made to the maritime community via the Local Notice to Mariners, marine information broadcasts and local area maritime committees. The safety and security zones have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety and protection deemed necessary for this high visibility event.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule will 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 may affect the following entities, some of which may be small entities: commercial vessels wishing to transit, fish or anchor in the portions of the Thames River or Long Island Sound covered by this rule. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

### 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

The Coast Guard has analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

### 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

The Coast Guard has analyzed this under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might 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 will 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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

The Coast Guard has considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is 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, 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. From 12:01 a.m. on April 2, 2005 to 11:59 p.m. on April 10, 2005 add temporary § 165.T01-011 to read as follows:

#### § 165.T01-011 Security and Safety Zone; TOPOFF 3, New London, CT.

(a) *Locations.* (1) *Fort Trumbull Safety and Security Zone.* The following area is a safety and security zone: All waters of the Thames River in an area bounded as follows: beginning at the end of the New England Seafood pier at approximate position 41°20'49.7" N, 072°05'41.6" W, thence running in an easterly direction to position 40°20'50.9" N, 072°05'36.5" W, thence in a southeasterly direction to position 41°20'43.1" N, 072°05'19.7" W, then south to position 41°20'34.9" N, 072°05'19.6" W, thence southwesterly to a point on the western shore of the Thames River at position, 41°20'26.6" N, 072°05'38.9" W, thence northerly along the western shore of the Thames River

to a position on the shore of the Thames River at position 41°20'29.3" N, 072°05'39.7" W, thence along the shore of the Thames River to the point of beginning.

(2) *Ocean Beach Safety and Security Zone.* The following area is a safety and security zone: All waters of Long Island Sound off of New London, Connecticut in an area bounded as follows: beginning at a position on the shore of New London Connecticut at position 41°18'31.4" N, 072°05'39.6" W, thence running southeasterly to position 41°18'29.3" N, 072°05'36.9" W, thence running position southwesterly to position 41°18'11.8" N, 072°06'2.8" W, thence running northwesterly to position 41°18'14.5" N, 072°06'6.1" W, thence running northeasterly along the shore to the point of beginning.

(b) *Effective date.* This rule is effective from 12:01 a.m. on April 2, 2005 until 11:59 p.m. on April 10, 2005.

(c) *Regulations.* (1) In accordance with the general regulations in 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port (COTP), Long Island Sound.

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

Dated: March 22, 2005.

**Peter J. Boynton,**

*Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.*

[FR Doc. 05-6143 Filed 3-24-05; 12:37 pm]

**BILLING CODE 4910-15-P**

### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 174

[USCG-2003-15708]

RIN 1625-AA75

#### Terms Imposed by States on Numbering of Vessels

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule; correction.

**SUMMARY:** The Coast Guard is correcting the preamble to a final rule that appeared in the **Federal Register** of March 18, 2005 (70 FR 13102). The final

rule expands the number of conditions that a State may require in order for owners to obtain vessel numbering certificates in that State. The preamble to the final rule contains an error in the regulatory evaluation.

**DATES:** Effective April 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** Audrey Pickup, Office of Boating Safety, at Coast Guard Headquarters, telephone 202-267-0872.

**SUPPLEMENTARY INFORMATION:** In rule FR Doc. 04-28227 published in the **Federal Register** of March 18, 2005 (70 FR 13104), correct the two paragraphs that appear on page 13104 under the heading "Regulatory Evaluation" to read:

"This final 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 (OMB) has not reviewed it under that Order.

"We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary."

Dated: March 22, 2005.

**Steve Venckus,**

*Chief, Regulations and Administrative Law, United States Coast Guard, DHS.*

[FR Doc. 05-5968 Filed 3-25-05; 8:45 am]

**BILLING CODE 4910-15-P**

### LIBRARY OF CONGRESS

#### Copyright Office

#### 37 CFR Part 202

[Docket No. RM 2005-3]

#### Registration of Claims to Copyright, Group Registration of Published Photographs

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final regulations.

**SUMMARY:** The Copyright Office of the Library of Congress is amending its final regulations concerning group registration of published photographs to limit to 750 the number of photographs that may be identified on continuation sheets submitted with a single application form and filing fee. The regulation continues to place no limit on the number of photographs that may be included in a single group registration when the applicant elects not to use continuation sheets and instead identifies the date of publication for each photograph on the deposited image and the applicant meets the other