

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 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. Add temporary § 165.T06–017 to read as follows:

§ 165.T–01–017 Safety Zone: Beverly Homecoming Fireworks, Beverly, MA.

(a) *Location.* The following area is a safety zone: All waters of Beverly Harbor, from surface to bottom, within a four hundred (400) yard radius of the fireworks barge located at approximate position 42°33.35′ N, 070°52.00′ W.

(b) *Effective Date.* This rule is effective from 8:30 p.m. until 10 p.m. on August 6, 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), Boston 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 24, 2006.

James L. McDonald,

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

[FR Doc. E6–12585 Filed 8–3–06; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–135]

RIN 1625–AA00

Safety Zone; Pentwater Homecoming Fireworks, Pentwater, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Pentwater Homecoming Fireworks, Pentwater, Michigan. This safety zone is necessary to safeguard vessels and spectators from hazards associated with fireworks displays. This rule is intended to restrict vessel traffic from a portion of Lake Michigan.

DATES: This safety zone is effective from 9 p.m. to 11 p.m. on August 12, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–06–135 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan between 7 a.m. (local) and 3:30 p.m. (local), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Brad Hinken, U.S. Coast Guard Sector Lake Michigan, at (414) 747–7154.

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 permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for

making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Lake Michigan has determined fireworks launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Pentwater Homecoming fireworks display. The fireworks display will occur between 9 p.m. and 11 p.m. on August 12, 2006.

The safety zone will encompass all waters of Lake Michigan within a 1000-foot radius of the fireworks launching site located on the north break wall in position 43°46.56′ N/086°26.38′ W (DATUM: NAD 83).

All persons and vessels must comply with the instructions of the Captain of the Port Lake Michigan or his designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on-scene representative. The Captain of the Port Lake Michigan may be contacted via VHF Channel 16.

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 determination is based upon the size and location of the safety zone within the waterway. Recreational vessels may transit through the safety zone with permission from the Captain of the Port Lake Michigan or his designated on-scene representative.

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 or anchor in a portion of the Lake Michigan off Pentwater, Michigan, between 9 p.m. and 11 p.m. on August 12, 2006.

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 two hours for one event and vessels can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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 would not result in such 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 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 would 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 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, we believe that this rule should be categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation.

A final "Environmental Analysis Check List" and a final "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 proposes to amend 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. A new temporary § 165.T09-135 is added to read as follows:

§ 165.T09-135 Safety Zone; Pentwater Homecoming Fireworks, Pentwater, Michigan.

(a) *Location.* The following area is a Safety Zone: All waters of Lake Michigan within a 1000-foot radius of the fireworks launching site located on the north break wall in position 43°46.56" N/086°26.38" W (DATUM: NAD 83).

(b) *Effective Period.* This safety zone is effective from 9 p.m. until 11 p.m. on August 12, 2006.

(c) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, entry into this zone is subject to the following requirements:

(1) This safety zone is closed to all marine traffic, except as may be permitted by the Captain of the Port or his designated on-scene representative.

(2) The "designated on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan, to act on his behalf. The designated on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(3) Vessel operators desiring to enter or operate within the Safety Zone shall contact the Captain of the Port or his

designated on-scene 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 Captain of the Port or his designated on-scene representative.

(4) The Captain of the Port may be contacted by telephone via the Sector Lake Michigan Operations Center at (414) 747-7182 during working hours. Vessels assisting in the enforcement of the Safety Zone may be contacted on VHF-FM channels 16.

Dated: July 26, 2006.

B.C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

[FR Doc. E6-12658 Filed 8-3-06; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No.: PTO-P-2006-0007]

RIN 0651-AC02

Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) is, in this final rule making, revising the rules of practice relating to the filing date requirements for *ex parte* and *inter partes* reexamination proceedings for consistency with the provisions of the patent statute governing *ex parte* and *inter partes* reexamination proceedings, and to permit the Office to have the full statutory three months to address a request for reexamination that is complete. The Office is specifically revising the rules to require that a request for *ex parte* reexamination or for *inter partes* reexamination must meet all the applicable statutory and regulatory requirements before a filing date is accorded to the request for *ex parte* reexamination or for *inter partes* reexamination.

DATES: *Effective Date:* August 4, 2006.

Applicability Date: The changes in this final rule apply to any request for reexamination (*ex parte* or *inter partes*) filed on or after March 27, 2006.

FOR FURTHER INFORMATION CONTACT: By telephone—Kenneth M. Schor, at (571) 272-7710; by mail addressed to U.S.

Patent and Trademark Office, Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Kenneth M. Schor; by facsimile transmission to (571) 273-7710 marked to the attention of Kenneth M. Schor; or by electronic mail message over the Internet addressed to kenneth.schor@uspto.gov.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (Office) is revising the rules of practice in title 37 of the Code of Federal Regulations (CFR) to require that a request for *ex parte* reexamination or for *inter partes* reexamination must meet all the applicable statutory requirements in 35 U.S.C. 302 or 311 (respectively) and the regulatory requirements in § 1.510 or § 1.915 (respectively) before a filing date is accorded to the request for *ex parte* reexamination or for *inter partes* reexamination. Thus, the Office is amending the rules to clearly require compliance with all the requirements of filing an *ex parte* reexamination request set forth in § 1.510 before a filing date will be assigned to an *ex parte* reexamination request, and to clearly require compliance with all the requirements of filing an *inter partes* reexamination request set forth in § 1.915 before a filing date will be assigned to an *inter partes* reexamination request. The Office published an interim rule revising the rules of practice to implement this revision of the rules. See *Clarification of Filing Date Requirements for Ex Parte and Inter Partes Reexamination Proceedings*, 71 FR 9260 (February 23, 2006), 1304 *Off. Gaz. Pat. Office* 95 (March 21, 2006) (interim rule). This notice adopts the interim revision as a final revision of the rules of practice, while making stylistic and non-substantive changes to the relevant rules, which changes are discussed below.

Section 1.510 sets forth the requirements for the content of a request for *ex parte* reexamination. Section 1.915 sets forth the requirements for the content of a request for *inter partes* reexamination. Former § 1.510(d) stated that the filing date of a request for *ex parte* reexamination is "(1) The date on which the request including the entire fee for requesting reexamination is received in the Patent and Trademark Office; or (2) The date on which the last portion of the fee for requesting reexamination is received." In like manner, former § 1.919(a) stated that "[t]he filing date of a request for *inter partes* reexamination is the date on