

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will not significantly impact any small entities because the bridge no longer exists and no longer affects vessel operators that would have required an opening of the draw.

#### 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 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 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 Department of Homeland Security Management Directive 5100.1 and 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 (32)(e) of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

■ 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; Department of Homeland Security Delegation No. 0170.1.

■ 2. § 117.489 is revised to read as follows:

#### § 117.489 Plaquemine Brule Bayou.

The draw of the S91 bridge, mile 8.0 at Estherwood, shall open on signal from 5 a.m. to 9 p.m. if at least four hours notice is given. From 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

Dated: August 25, 2008.

**J.H. Korn,**

*Captain, U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.*

[FR Doc. E8–20362 Filed 9–2–08; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2008–0835]

RIN 1625–AA00

#### Safety Zone; Waters Surrounding S/V FALLS OF CLYDE, HI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary 500-yard moving safety zone around the S/V FALLS OF CLYDE and her tow vessel(s) during transit within the Honolulu Captain of the Port Zone. The safety zone is established at the request of the Hawaii Maritime Center to protect vessels and persons from approaching too close to the dead-ship tow of the S/V FALLS OF CLYDE. Entry of persons or vessels into this temporary safety

zone is prohibited unless authorized by the Captain of the Port.

**DATES:** This rule is effective from 12:01 a.m. on September 2, 2008 until 11:59 p.m. on October 2, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0835 and are available on line at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the U.S. Coast Guard Sector Honolulu, Waterways Management Division, 433 Ala Moana Blvd., Honolulu, HI 96813 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call Lieutenant Marcella Granquist, Waterways Management Division, U.S. Coast Guard Sector Honolulu, telephone 808-842-2600. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

#### **Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard was not given the final voyage plan in time to initiate full rulemaking, and the need for this temporary moving safety zone was not determined until less than 30 days before the general public will require the zone's protection. Publishing an NPRM and delaying the effective date would be contrary to the public interest since the transit would occur before completion of the rulemaking process, thereby jeopardizing the safety of the general public. 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**. The COTP finds this good cause to be the immediate need for a safety zone to ensure public safety surrounding the transit of the unmanned S/V FALLS OF CLYDE from Honolulu Harbor to 12 nautical miles off shore of Oahu, HI.

#### **Background and Purpose**

On or after September 2, 2008 the dead-ship tow of the S/V FALLS OF CLYDE is scheduled to transit U.S. navigable waters in the Honolulu Captain of the Port Zone from the Honolulu Harbor to off the southern coast of Oahu, HI. The Coast Guard is establishing this safety zone to ensure the public's safety during the transit of the S/V FALLS OF CLYDE from the Honolulu Harbor entrance channel commencing at a line between channel buoys no. 1 and no. 2 to 12 nautical miles off the southern coast of Oahu, HI.

#### **Discussion of Rule**

This temporary safety zone is effective on or after 12:01 a.m. on September 2, 2008 until 11:59 p.m. on October 2, 2008. It is located within the Honolulu Captain of the Port Zone (See 33 CFR 3.70-10) and covers all U.S. navigable waters extending 500 yards in all directions from the S/V FALLS OF CLYDE and her tow vessel(s), from the surface of the water to the ocean floor. Unpredictable weather and sea states make a broad date and time range necessary to safely complete the transit. Enforcement periods would be announced over marine band VHF channel 16 prior to enforcement to ensure ample public notification. The safety zone moves with the dead-ship tow of the S/V FALLS OF CLYDE while in transit between the Honolulu Harbor main entrance channel commencing at a line between channel buoys no. 1 and no. 2 and up to 12 nautical miles off shore of Oahu, HI. The safety zone becomes fixed if the S/V FALLS OF CLYDE is anchored, position-keeping, or moored during any part of the aforementioned transit.

The S/V FALLS OF CLYDE is easy to recognize because it is a steel hulled, 280' in length, 40' at the beam, with four white colored masts, no sails or rigging, and the hull is painted with solid, horizontal, bands of black paint on the top third starting at the railings, grey paint in the middle, then red paint on the lower third towards the bottom, and a small thin horizontal stripe of yellow paint between the black and grey bands.

In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person or vessel would be permitted to enter or remain in the zone except for support vessels/aircraft and

support personnel, or other vessels authorized by the Captain of the Port or the District Commander. The Captain of the Port will cause notice of the enforcement of the safety zone described in this section to be made by broadcast notice to mariners. Any Coast Guard commissioned, warrant, or petty officer, and any other Captain of the Port representative permitted by law, may enforce the zone. Vessels, aircraft, or persons in violation of this proposed rule would be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

#### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders. This rule is not a "significant regulatory action" under § 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under § 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

#### **Regulatory Planning and Review**

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 under the regulatory policies and procedures of DHS is unnecessary. This expectation is based on the limited duration of the zone, the limited geographic area affected by it, and its ability to move with the vessel(s) in transit.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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. We expect that there will be little or no

impact to small entities due to the narrow scope and nature of this safety zone. Also, vessel traffic will be allowed to pass safely around this moving safety zone. Additionally, before the effective period, we will issue maritime advisories widely available to users of the Honolulu Harbor, HI.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can 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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 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 either preempts State law or imposes 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 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 is 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 Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.1D, 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 under the Instruction 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, under figure 2–1, paragraph (22) of the Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule establishes a temporary moving safety zone and for less than 24 hours in duration.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Safety measures, and 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 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 § 165.T14–172 to read as follows:

#### § 165.T14–172 Safety Zone; Waters Surrounding S/V FALLS OF CLYDE, HI.

(a) *Location.* The following area, in U.S. navigable waters within the Honolulu Captain of the Port Zone (See 33 CFR 3.70–10), from the surface of the water to the ocean floor, is a safety zone: All waters extending 500 yards in all directions from the S/V FALLS OF CLYDE and her tow vessel(s) during transit from the Honolulu Harbor main channel commencing at a line between channel buoys no. 1 and no. 2 to 12

nautical miles off shore of Oahu, HI. The safety zone moves with the S/V FALLS OF CLYDE and her tow vessel(s) while they are in transit and becomes fixed when the S/V FALLS OF CLYDE is anchored, position-keeping, or moored.

(b) *Effective period.* This section is effective from 12:01 a.m. on September 2, 2008 through 11:59 p.m. on October 2, 2008.

(c) *Regulations.* The general regulations governing safety zones contained in 33 CFR 165.23 apply. Entry, transit, or anchoring within this zone is prohibited unless authorized by the Captain of the Port Honolulu or the District Commander.

(d) *Enforcement.* The Coast Guard will begin enforcement of the safety zone described in this section upon the S/V FALLS OF CLYDE passing the Honolulu Harbor main entrance channel at buoys no. 1 and no. 2 of the U.S. navigable waters within the Honolulu Captain of the Port Zone.

(e) *Informational notice.* The Captain of the Port Honolulu will ensure notice of the enforcement of the safety zone described in this section is communicated by broadcast notice to mariners.

(f) *Authority to enforce.* Any Coast Guard commissioned, warrant, or petty officer, and any other Captain of the Port representative permitted by law, may enforce this temporary safety zone.

(g) *Waiver.* The Captain of the Port may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime security.

(h) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: August 20, 2008.

**B.A. Compagnoni,**

*Captain, U.S. Coast Guard, Captain of the Port Honolulu.*

[FR Doc. E8-20361 Filed 9-2-08; 8:45 am]

BILLING CODE 4910-15-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2008-0829]

**Safety Zone; Chicago Harbor, Navy Pier East, Chicago, IL**

AGENCY: Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the Navy Pier East Safety Zone in Chicago Harbor on September 30, 2008. This action is necessary to protect vessels and people from the hazards associated with fireworks displays. This safety zone will restrict vessel traffic from a portion of the Captain of the Port Lake Michigan Zone.

**DATES:** Enforced from 8 p.m. to 10 p.m. on September 30, 2008.

**FOR FURTHER INFORMATION CONTACT:** LCDR Bannan, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747-7154.

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Safety Zone, Navy Pier East, Chicago Harbor, Chicago, IL, 33 CFR 165.933 for the following event:

*Bridgestone Conference* on September 30, 2008 from 8 p.m. through 10 p.m.

All vessels must obtain permission from the Captain of the Port or his designated representative to enter, move within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or a designated representative. While within the safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.933 Safety Zone, Navy Pier East, Chicago Harbor, Chicago, IL and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners and Local Notice to Mariners.

The Captain of the Port or his designated representative will issue a Broadcast Notice to Mariners notifying the public if enforcement of the safety zone established by this section is suspended. The Captain of the Port or his designated representative may be contacted via U.S. Coast Guard Sector Lake Michigan on channel 16, VHF-FM.

Dated: August 8, 2008.

**Bruce C. Jones,**

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

[FR Doc. E8-20363 Filed 9-2-08; 8:45 am]

BILLING CODE 4910-15-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2008-0264]

RIN 1625-AA00

**Safety Zone; Patchogue Bay, Patchogue, NY**

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone for the Patchogue Grand Prix, a power boat race on Patchogue Bay off of Patchogue, New York. The safety zone provides for safety of navigation for the maritime public viewing and transiting near the power boat race. This safety zone is necessary to protect the maritime community from the hazards inherent with a power boat race, namely, a collision and loss of control of the power boats participating in this event. Entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound.

**DATES:** This rule is effective on September 3, 2008.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-0264 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and at United States Coast Guard Sector Long Island Sound, 120 Woodward Avenue, New Haven, Connecticut, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call LT Douglas Miller, USCG Sector Long Island Sound Prevention Department at (203) 486-4459. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Submitting Comments**

On June 12, 2008 we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Patchogue Bay,