

in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

Dated: June 23, 2005.

**Jeannette Owings-Ballard,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[CGD11-05-010]

RIN 1625-AA08

#### Special Local Regulations for Marine Events; Humboldt Bay, San Francisco Bay, Monterey Bay, and Lake Tahoe

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing special local regulations for the loading, transport, and launching of fireworks used during twenty two separate Fourth of July fireworks displays to be held in various locations in Northern California and Western Nevada. These special local regulations are intended to prohibit vessels and people from entering into or remaining within the regulated areas to ensure the safety of participants, spectators, and mariners transiting the event areas.

**DATES:** This rule is effective from 10 a.m. on July 2, 2005, to 11 p.m. on July 4, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of the docket CGD 11-05-010 and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Doug Ebberts, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437-2770.

#### 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. Logistical details surrounding the events were not finalized and presented to the Coast Guard in time to draft and publish an NPRM. As such, the events would occur before the rulemaking process was complete. Because of the dangers posed by the pyrotechnics used in the fireworks displays, special local regulations are necessary to provide for the safety of event participants, spectator craft, and other vessels transiting the event areas. For the safety concerns noted, it is in the public's interest to have these regulations in effect during the events.

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 in the effective date of this rule would expose mariners to the dangers posed by the pyrotechnics used in the fireworks displays.

##### Background and Purpose

Various public and private agencies are sponsoring short fireworks displays between July 3, 2005, and July 5, 2005, throughout the Captain of the Port, San Francisco Bay Zone. The fireworks displays are meant for entertainment purposes in celebration of the Fourth of July Holiday. These special local regulations are being issued to establish temporary regulated areas around fireworks launch barges during the loading of pyrotechnics, during the transit of the barges to the display locations, and during the fireworks displays. For those displays launching fireworks from shore, temporary regulated areas are being established in the waters surrounding the shore-based launch locations. These regulated areas around the fireworks launch barges and launch locations are necessary to protect participants, spectators, and mariners transiting the event areas from the hazards associated with the pyrotechnics being used. The Coast Guard has granted marine event permits for each of the fireworks displays listed in this regulation.

##### Discussion of Rule

The Coast Guard is establishing temporary special local regulations on specified waters of the Captain of the Port, San Francisco Bay Zone. For each of the fireworks displays involving barges, the special local regulations apply to the navigable waters around and under the fireworks barge(s) within a radius of 100 feet during the loading of pyrotechnics onto the barge(s), the towing of the barge(s) to the display location, and until the start of the fireworks display. During the fireworks

display, the area to which these special local regulations apply will increase in size to encompass the navigable waters around and under the fireworks barge(s) within a radius of 1,000 feet. For shore-fired fireworks displays, the special local regulations apply to the navigable waters surrounding the launch location within a radius of 1,000 feet during the fireworks display.

For barge-fired displays, the effect of the temporary special local regulations will be to restrict general navigation in the vicinity of fireworks barges during the loading of pyrotechnics, during the transit of the fireworks barges, and until the conclusion of the scheduled display. For shore-fired displays, the effect of the temporary special local regulations will be to restrict general navigation in the vicinity of the launch location during the fireworks display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no persons or vessels may enter or remain in the regulated areas. These regulations are needed to keep spectators and vessels a safe distance away to ensure the safety of participants, spectators, and transiting vessels.

Pursuant to 33 U.S.C. 1236, persons violating these special local regulations may be liable as follows: Suspension or revocation of the license of a licensed officer for incompetence or misconduct; civil penalty of \$6,500 for any person in charge of the navigation of a vessel other than a licensed officer; civil penalty of \$6,500 for the owner of a vessel (including any corporate officer of a corporation owning the vessel) who is actually on board; and \$2,750 for any other person.

##### 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).

Although these regulations prevent traffic from transiting portions of the San Francisco Bay zone, the effect of these regulations will not be significant due to the small size and limited duration of the regulated areas. The entities most likely affected are pleasure craft engaged in recreational activities and sightseeing.

### 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 may effect owners and operators of pleasure craft engaged in recreational activities and sightseeing, and small commercial sightseeing vessels. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the regulated areas, (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the regulated areas to engage in these activities, (iii) this rule will encompass small portions of the waterways for a limited period of time, and (iv) the maritime public will be advised in advance of these special local regulations via public notice to mariners.

### 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. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions, options for compliance, or assistance in understanding this rule, please contact Lieutenant Doug Ebberts, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–5873.

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 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)(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 record keeping 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–T11–028 to read as follows:

**§ 100.35–T11–028 San Francisco Bay Zone Fourth of July Fireworks Displays.**

(a) *Regulated Areas.* (1) For each of the listed displays in paragraph (b) of this section using one or more barges as fireworks launch platforms, the regulated area encompasses the navigable waters around and under the fireworks barge(s) within a radius of 100 feet during the loading of the fireworks barge(s), during the transit of the fireworks barge(s) to the display location, and until the start of the fireworks display. During the fireworks display, the regulated area increases in size to encompass the navigable waters around and under the fireworks launch barge(s) within a radius of 1,000 feet.

(2) For each of the listed displays in paragraph (b) of this section launching fireworks from shore, the regulated area encompasses the navigable waters surrounding the launch location within a radius of 1,000 feet during the fireworks display.

(b) *Specific event times and locations.*

(1) Humboldt Bay Fireworks Display, sponsored by the City of Eureka: Loading of the fireworks barge will commence at 8 a.m. at the C-Street Pier in Humboldt Bay on July 3, 2005. The 30-minute fireworks display will take place in Humboldt Bay, CA, south of Woodley Island and west of Eureka Inner Reach Channel in position 40–48'14.0" N, 124–10'01.0" W at 9:30 p.m. on July 4, 2005.

(2) Crescent City Fireworks Display, sponsored by the Crescent City Del Norte Chamber of Commerce: Fireworks will be launched from the Battery Point Jetty in Crescent City, CA, out over the Crescent City harbor. The 30-minute fireworks display will start at 9 p.m. on July 4, 2005.

(3) City of Sausalito Fireworks Display, sponsored by the City of Sausalito: Loading of the fireworks barge will commence at 8 a.m. at San Francisco's Pier 50 on July 4, 2005. The 20-minute fireworks display will take

place in Sausalito, CA, 1,000 feet off the Sausalito shoreline, just north of Spinnaker Rest at 9:30 p.m. on July 4, 2005.

(4) Vallejo Fireworks Display, sponsored by the City of Vallejo: Fireworks will be launched from Dry Dock #3 on Mare Island, CA, out over the Mare Island Strait. The 20-minute fireworks display will start at 9:30 p.m. on July 4, 2005.

(5) San Francisco Municipal Pier Fireworks Display, sponsored by the City of San Francisco: Fireworks will be launched from the Aquatic Park Municipal Pier in San Francisco, CA. The 20-minute fireworks display will start at 9:30 p.m. on July 4, 2005.

(6) San Francisco Pier 39 Fireworks Display, sponsored by the City of San Francisco: Loading of the two fireworks barges will commence at 11 a.m. at Pier 50 in San Francisco on July 3, 2005. The 20-minute fireworks display will take place 1,000 feet off of Pier 39 in San Francisco, CA, in position 37°48'49.0" N, 122°24'46.5" W at 9:30 p.m. on July 4, 2005.

(7) Jack London Square Fireworks Display, sponsored by C.A.C. Real Estate Management: Loading of the fireworks barge will commence at 11 a.m. at Pier 50 in San Francisco on July 4, 2005. The 20-minute fireworks display will take place in Alameda, CA, 600 feet off of the Howard Terminal, in position 37°47'37.0" N, 122°16'55.0" W at 9:30 p.m. on July 4, 2005.

(8) Redwood City Fireworks Display, sponsored by Peninsula Celebration Association: Loading of the fireworks barge will commence at 11 a.m. at Pier 50 in San Francisco on July 4, 2005. The 20-minute fireworks display will take place in the turning basin in Redwood City, CA, 600 feet off of Wharf 5, in position 37°30'21.0" N, 122°12'51.0" W at 9:30 on July 4, 2005.

(9) Martinez Fireworks Display, sponsored by the City of Martinez: Fireworks will be launched from a pier in the Martinez Marina in Martinez, CA. The 20-minute fireworks display will start at 9:30 p.m. on July 4, 2005.

(10) Pittsburg Fireworks Display, sponsored by the Pittsburg Chamber of Commerce: Fireworks will be launched from a pier in the Pittsburg Marina in Pittsburg, CA. The 15-minute fireworks display will start at 9:30 p.m. on July 4, 2005.

(11) Antioch Fireworks Display, sponsored by the City of Antioch: Loading of the fireworks barge will commence at 9 a.m. at the Fulton Shipyard in Antioch on July 4, 2005. The 30-minute fireworks display will take place in Antioch, CA, 600 feet off

of Big Break Road in Antioch, CA at 9:30 p.m. on July 4, 2005.

(12) Baron Hilton Fireworks Display, sponsored by the Hilton Hotel Corporation: Loading of the fireworks barge will commence at 11 a.m. at the Dutra Corporation Yard in Rio Vista on July 2, 2005. The 20-minute fireworks display will take place in Stockton, CA, 3,000 feet off of Venice Island at 9:30 p.m. on July 4, 2005.

(13) North Lake Tahoe King's Beach Fireworks Display, sponsored by the North Tahoe Business Association: Loading of the fireworks barge will commence at 9 a.m. at Williamson Yard in Tahoe City on July 3, 2005. The 10-minute fireworks display will take place in North Lake Tahoe, NV, 700 feet offshore of Kings Beach at 9:30 p.m. on July 3, 2005.

(14) Tahoe City Fireworks Display, sponsored by the Tahoe City Rotary: Loading of the fireworks barge will commence at 9 a.m. at Williamson Yard in Tahoe City on July 3, 2005. The 10-minute fireworks display will take place in Tahoe City, CA, 700 feet offshore of Common Beach at 9:30 p.m. on July 4, 2005.

(15) Glenbrook Community Fireworks Display, sponsored by the Glenbrook Community Homeowners Association: Loading of the fireworks barge will commence at 10 a.m. at the Tahoe Keys Marina on July 4, 2005. The 20-minute fireworks display will take place in Glenbrook, NV, 1,000 feet off of Glenbrook Beach, in position 39°05'22.0" N, 119°56'55.0" W at 9:45 p.m. on July 4, 2005.

(16) Incline Village on Lake Tahoe Fireworks Display, sponsored by the Parasol Foundation: Loading of the fireworks barge will commence at 8 a.m. at Obexer's Marina on July 4, 2005. The 30-minute fireworks display will take place in Incline Village, NV, 1,000 feet off the shore of Crystal Bay at 21:00 on July 4, 2005.

(17) South Lake Tahoe Gaming Alliance Fireworks Display, sponsored by the Tahoe Douglas Visitors Authority: Loading of the three fireworks barges will commence at 10 a.m. at the South Lake Tahoe Keys Marina on July 2, 2005. The 30-minute fireworks display will take place 500 feet off of the southern shore of Lake Tahoe, CA near the Nevada border at 9:15 p.m. on July 4, 2005.

(18) Pillar Point Fireworks Display, sponsored by Light up the Sky: Fireworks will be launched from the Harbor Jetty in Pillar Point, CA. The 30-minute fireworks display will start at 9 p.m. on July 4, 2005.

(19) City of Monterey Fireworks Display, sponsored by the Monterey

Department of Recreation and Community Services: Loading of the fireworks barge will commence at 9 a.m. at the Monterey U.S. Coast Guard Pier on July 4, 2005. The 20-minute fireworks display will take place in Monterey Bay, CA, east of Municipal Wharf #2 at 9:15 p.m. on July 4, 2005.

(c) *Definitions.* For purposes of this section—

*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.

*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.

(d) *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.

(e) *Enforcement period.* For each of the listed fireworks displays in paragraph (b) of this section, this section will be enforced during the loading of the fireworks barge(s), during the transit of the fireworks barge(s) to the display location, and until the conclusion of the fireworks display.

Dated: June 22, 2005.

**K. J. Eldridge,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-05-053]

RIN 1625-AA00

#### Safety Zone: Independence Day Celebration Fireworks—Ipswich, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Independence Day Fireworks on July 3, 2005 on Ipswich Bay in Ipswich, Massachusetts. The safety zone will

prohibit entry into or movement within a portion of Ipswich Bay during the closure period. The safety zone is necessary to protect the life and property of the maritime public from the potential hazards posed by a fireworks display.

**DATES:** This rule is effective from 8:30 p.m. e.d.t. on July 3, 2005 to 10:30 p.m. e.d.t. on July 3, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01-05-053 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. An NPRM was not published for this regulation because the logistics for the fireworks presentation were not determined with sufficient time to draft and publish an NPRM. 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 Ipswich Bay during the fireworks display 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 the public interest since the safety zone is needed to prevent traffic from transiting a portion of Ipswich Bay during the fireworks event thus ensuring that the maritime public is protected from any potential harm associated with such an event. Additionally, the zone should have a negligible impact on vessel transits due to the fact that vessels will be limited from the area for only 2 hours, and vessels can still transit in the majority of Ipswich Bay during the event.

##### Background and Purpose

This temporary rule establishes a safety zone in Ipswich Bay within a four hundred (400)-yard radius of the fireworks launch site located at approximate position 42°41'.5" N,

070°46'.55" W. The safety zone will in effect from 8:30 p.m. e.d.t. until 10:30 p.m. e.d.t. on July 3, 2005.

The zone will restrict movement within this portion of Ipswich Bay and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the safety 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. e.d.t. until 10:30 p.m. e.d.t. July 3, 2005. Marine traffic may transit safely outside of the safety zone in the majority of Ipswich Bay during the event. Because of the limited time-frame of the effective period and because the zone leaves the majority of Ipswich Bay 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 will prevent traffic from transiting a portion of Ipswich Bay during the effective periods, 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 2 hours, vessels will be able to operate in the majority of Ipswich Bay 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