

Risks and Safety Risks. This rule is not an economically significant rule and will not concern 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 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

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy

Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of the 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, as it establishes a safety zone.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be available in the docket where indicated under **ADDRESSES**.

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

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226 and 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.T01–060 to read as follows:

#### § 165.T01–060 Safety Zone: Sag Harbor Fireworks, Havens Beach, Sag Harbor Bay, NY.

(a) *Location.* The following area is a safety zone: All navigable waters of Sag Harbor Bay in a 1200-foot radius of a fireworks launch site located at approximate position 41°00.133' N, 072°17.26' W. All coordinates are North American Datum 1983.

(b) *Definitions.* The following definitions apply to this section:  
*Designated on-scene patrol personnel*, means any commissioned, warrant and petty officer of the U.S. Coast Guard who has been authorized to act on behalf of the Captain of the Port, Long Island Sound.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound or his designated on-scene patrol personnel.

(3) All persons and vessels shall comply with the Coast Guard Captain of

the Port or designated on-scene patrol personnel.

(4) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Persons and vessels may request permission to enter the zone on VHF–16 or via phone at (203) 468–4401.

(d) *Enforcement period.* This section will be enforced from 8:30 p.m. to 10:30 p.m. on Saturday, July 7, 2007 and if the fireworks display is postponed, from 8:30 p.m. to 10:30 p.m. on Sunday, July 8, 2007.

Dated: June 5, 2007.

**J.J. Plunkett,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 07–018]

RIN 1625–AA00

#### Safety Zone; Pittsburg Chamber of Commerce Fourth of July Fireworks Display, San Francisco Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the navigable waters of San Francisco Bay for the loading, transport, and launching of fireworks used during the Pittsburg Chamber of Commerce, Fourth of July Fireworks Display to be held on July 4, 2007. This safety zone is intended to prohibit vessels and people from entering into or remaining within the regulated areas in order to ensure the safety of participants and spectators.  
**DATES:** This rule is effective from 9: a.m. to 10 p.m. on July 4, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket COTP San Francisco Bay 07–018 and are available for inspection or copying at Coast Guard Sector San Francisco, 1 Yerba Buena Island, San Francisco, California, 94130, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ensign Sheral Richardson, United States Coast Guard Sector San Francisco, at (415) 556–2950 extension 136, or the 24-hour Command Center at (415) 399–3547.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Logistical details surrounding the event were not finalized and presented to the Coast Guard in time to draft and publish an NPRM. As such, the event would occur before the rulemaking process was complete. Because of the dangers posed by the pyrotechnics used in this fireworks display, this safety zone is necessary to provide for the safety of event participants, spectators, and vessels transiting the event area. Because of these safety concerns, it is in the public interest to have these regulations in effect during the event.

For the same reasons, the Coast Guard finds that good cause exists under 5 U.S.C. 553(d)(3) 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 this fireworks display.

**Background and Purpose**

The Pittsburg Chamber of Commerce will sponsor a fireworks display on July 4, 2007 in the waters of San Francisco Bay on the New York Slough. The fireworks display is meant for entertainment purposes. This safety zone is issued to establish a temporary regulated area in San Francisco Bay around the fireworks launch barge during loading of the pyrotechnics, during the transit of the barge to the display location, and during the fireworks display. This restricted area around the launch barge is necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics on the fireworks barge. The Coast Guard has granted the event sponsor a marine event permit for the fireworks display.

**Discussion of Rule**

The Coast Guard is establishing a temporary safety zone in the navigable waters of San Francisco Bay near Pier 50 and the New York Slough. During the loading of the fireworks barge, while the barge is being towed to the display location, and until the start of the fireworks display, the temporary safety zone applies to the navigable waters around and under the fireworks barge within a radius of 100 feet. Fifteen minutes prior to and during the twenty minute fireworks display, the area to which the temporary safety zone applies

will increase in size to encompass the navigable waters around and under the fireworks barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 9 a.m. on July 4, 2007, and will take place at Pier 50 in San Francisco. Towing of the barge from Pier 50 to the display location is scheduled to take place between 12 p.m. and 8 p.m. on July 4, 2007. During the fireworks display, scheduled to commence at approximately 9:30 p.m., the fireworks barge will be located approximately 400 feet from Pittsburg Marina on the New York Slough approximate position 38°02.42' N, 121°52.97' W.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the fireworks barge while the fireworks are loaded at Pier 50, during the transit of the fireworks barge, and until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep spectators and vessels a safe distance away from the fireworks barge to ensure the safety of participants, spectators, and transiting vessels.

**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.

Although this regulation prevents traffic from transiting a portion of San Francisco Bay during the event, the effect of this regulation will not be significant due to the small size and limited duration of the regulated area. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

**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 entities. This rule will affect the following entities, some of which may be small entities: Owners and operators of pleasure craft engaged in recreational activities and sightseeing. 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 area; (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of San Francisco Bay to engage in these activities; (iii) this rule will encompass only a small portion of the waterway for a limited period of time, and; (iv) the maritime public will be advised in advance of this safety zone via publicly broadcasted notice to mariners.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding the rule so 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 would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have

determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. Paragraph (34)(g) is applicable because this rule establishes a safety zone. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” will be available in the docket where indicated under **ADDRESSES**.

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

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 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 temporary § 165.T11–196 to read as follows:

#### **§ 165.T11–196 Safety Zone; Pittsburg Chamber of Commerce, Fourth of July Fireworks Display, San Francisco Bay, CA.**

(a) *Location.* The following area is a safety zone: The waters of San Francisco Bay surrounding a barge used as the launch platform for a fireworks display. During the loading of the fireworks barge, during the transit of the fireworks barge to the display location, and until fifteen minutes prior to the start of the fireworks display, the restricted area encompasses the navigable waters, from surface to bottom, around the fireworks barge within a radius of 100 feet. During the fifteen minutes preceding the fireworks display and during the twenty minute fireworks display itself, the safety zone increases in size to encompass the navigable waters, from surface to bottom, around the fireworks launch barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 9 a.m. on July 4, 2007, and will take place at Pier 50 in San Francisco. Towing of the barge from Pier 50 to the display location is scheduled to take place between 12 p.m. and 8 p.m. on July 4, 2007. During the fireworks display, scheduled to start at approximately 9:30 p.m. on July 4, 2007, the barge will be located approximately 400 feet from Pittsburg Marina on the New York Slough in approximate position 38°02.42' N, 121°52.97' W.

(b) *Effective period.* This section is effective from 9 a.m. through 10 p.m. on July 4, 2007. If the event concludes prior to the scheduled termination time, the Coast Guard will cease enforcement of the safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone by all vessels and persons is prohibited, unless specifically authorized by the Captain of the Port San Francisco, or his designated representative.

(d) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, or the designated on-scene patrol personnel. Patrol personnel can be comprised of commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, State, and Federal law enforcement vessels. Upon being hailed

by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. The U.S. Coast Guard may be assisted in the patrol and enforcement of this safety zone by local law enforcement.

Dated: June 4, 2007.

**W.J. Uberti,**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-07-001]

RIN 1625-AA00

#### **Safety Zone: Town of Marblehead Fourth of July Fireworks Display, Marblehead Harbor, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Town of Marblehead Fourth of July Fireworks on July 4, 2007 with a rain date on July 5, 2007, in Marblehead, MA temporarily closing all navigable waters of Marblehead Harbor within a four hundred (400) yard radius of the fireworks barge located at approximate position 42°30.567' N, 070°50.162' W. The safety zone is necessary to protect the life and property of the maritime public from the potential hazards posed by a fireworks display. The safety zone temporarily prohibits entry into or movement within this portion of Marblehead Harbor during its closure period.

**DATES:** This rule is effective from 8:30 p.m. EDT on July 4, 2007 until 10 p.m. EDT on July 4, 2007. The rain date for the fireworks event is from 8:30 p.m. EDT until 10 p.m. EDT on July 5, 2007.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket CGD01-07-001 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Joseph Yonker, Sector Boston, Waterways Management Division, at (617) 223-5007.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

On April 16, 2007, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Town of Marblehead Fourth of July Fireworks Display, Marblehead Harbor, MA" in the **Federal Register** (72 FR 18933). We did not receive any letters commenting on the proposed rule. No public meeting was requested, and none was held.

As the fireworks display is scheduled to occur on July 4, 2007, any delay encountered in the 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 Marblehead Harbor during the fireworks display thus ensuring that the maritime public is protected from any potential harm associated with such an event. Accordingly, 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**.

##### **Background and Purpose**

This rule establishes a safety zone on the navigable waters of Marblehead Harbor within a 400 yard radius around the fireworks barge located at approximate position 42°30.567' N, 070°50.162' W. The safety zone is in effect from 8:30 p.m. EDT until 10 p.m. EDT on July 4, 2007. The rain date for the fireworks event is from 8:30 p.m. until 10 p.m. EDT on July 5, 2007.

The safety zone temporarily restricts movement within this portion of Marblehead Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the zone during the effective period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to the event. Public notifications will be made prior to the effective period via marine information broadcasts and Local Notice to Mariners.

##### **Discussion of Comments and Changes**

The Coast Guard did not receive any comments from the public in response to the NPRM and as a result no changes have been made to this temporary final rule.

##### **Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and

Budget has not reviewed it under that Order.

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under of the regulatory policies and procedures of DHS is unnecessary.

Although this rule prevents vessel traffic from transiting a portion of Marblehead Harbor during the effective period, the effects of this regulation will not be significant for several reasons: vessels will be excluded from the proscribed area for only one and one half hours, vessels will be able to operate in the majority of Marblehead Harbor 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 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 or operators of vessels intending to transit or anchor in a portion of Marblehead Harbor from 8:30 p.m. EDT until 10 p.m. EDT on July 4, 2007 or during the same hours on July 5, 2007.

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 one and one half hours, vessel traffic can safely pass around the zone, and advance notifications will be made to the local maritime community by marine information broadcasts and Local 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.