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*Deputy Executive Director and Chief,
Operating Officer, Pension Benefit Guaranty
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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 110 and 165

[CGD01-04-088]

RIN 1625-AA87, 1625-AA00, 1625-AA01,
1625-AA11

Regulated Navigation Areas, Anchorage Grounds, Safety and Security Zones; Tall Ships Rhode Island 2004, Narragansett Bay, RI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing regulated navigation areas, anchorage grounds, and safety and security zones in and adjacent to Narragansett Bay, Rhode Island for the Tall Ships Rhode Island 2004 event. These actions are necessary to provide for the safety of life and property on the navigable waters in and adjacent to Narragansett Bay, Rhode Island and for the security of participating Tall Ships during the Tall Ships Rhode Island 2004 event, Narragansett Bay, Rhode Island. These actions will temporarily restrict vessel traffic in portions of and adjacent to Narragansett Bay.

DATES: This rule is effective from 6 a.m., e.d.t. July 14, 2004 through 8 p.m., e.d.t. July 19, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01-04-088 and are available for inspection or copying at the Waterways Management Department, Coast Guard Marine Safety Office Providence, 20 Risho Avenue, East Providence, RI 02914, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant P. Garcia, Waterways Management Department, Coast Guard Marine Safety Office Providence, at (401) 435-2363.

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. Due to the complex planning and coordination involved, final details for the Tall Ships Rhode Island 2004 event were not provided to the Coast Guard until June 22, 2004, making it impossible to publish a NPRM or a final rule 30 days in advance.

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 implementing this rule will be contrary to the public interest due to the risks inherent in this high visibility marine event with the participation of a large number of spectator and participating vessels.

Background and Purpose

Newport, Rhode Island, will host the Tall Ships Rhode Island 2004 festival from July 16-19, 2004. While the Tall Ships Rhode Island 2004 event is not an annual event, this visit of Class A, B and C sailing vessels is part of an annual series of sail training races, rallies, cruise and port festivals organized by the American Sail Training Association ("ASTA") in conjunction with host ports in the United States and Canada.

The Tall Ships visit to Newport, which will occur from July 14-19, 2004, will include the festival from July 16-19, 2004 and a Parade of Sail on July 19, 2004. Approximately 20 Class A, B and C vessels are expected to participate in the Parade of Sail. These regulations will provide for the safety of life and protection of property on the navigable waters in and adjacent to Narragansett Bay, Rhode Island by preventing the large number of spectator vessels from interfering with the organized Parade of Sail. There will be vessels participating in the event from several foreign countries and the high visibility of this event warrants that both safety and security zones be established to safeguard participating vessels, their crews and the maritime public from sabotage or other subversive acts, accidents, or other hazards of a similar nature.

The participating vessels will anchor in designated anchorages in the East Passage of Narragansett Bay on July 14, 2004. On July 15, 2004, the participating vessels will depart the anchorage area and proceed to moor at Goat Island in preparation for the festival. On July 19, 2004, Coast Guard Cutter (CGC) EAGLE will depart State Pier and the Tall Ships will depart Goat Island and proceed to a parade staging area just seaward of, and adjacent to the East Passage, Narragansett Bay. At noon e.d.t. on July 19, 2004 the vessels will transit up the

East Passage, Narragansett Bay, to a turning point just north of Gould Island, the vessels will then transit back down the East Passage, exit Narragansett Bay and head for sea.

These rules create vessel movement controls and safety and security zones for the Parade of Sail, and creates temporary anchorage regulations. The regulations will be in effect at various times in Narragansett Bay and in the waters adjacent to and seaward of East Passage, Narragansett Bay, beginning on July 14, 2004 until July 19, 2004. Vessel congestion due to the large number of participating and spectator vessels poses a significant threat to the safety of life and property. This temporary rulemaking is necessary to ensure the safety of life and property in the navigable waters of the United States, and to safeguard participating vessels, their crews and the maritime public from sabotage or other subversive acts, accidents, or other hazards of a similar nature.

Regulated Navigation Areas

The Coast Guard is establishing three temporary Regulated Navigation Areas in Narragansett Bay, one from July 14-15, 2004, one from July 15-19, 2004 and one on July 19, 2004.

Regulated Navigation Area "A" (Area A) is needed to protect the maritime public and participating vessels from hazards to navigation associated with the overnight anchoring of Tall Ships in temporary anchorage Potter Cove located in the East Passage, Narragansett Bay.

Area A includes all waters of charted Anchorage A in the East Passage, Narragansett Bay, that lay north of the Claiborne Pell/Newport Bridge. (The portion of Anchorage A south of the Claiborne Pell/Newport Bridge is not affected by these regulations). This Regulated Navigation Area is effective from 6 a.m. e.d.t. on July 14, 2004 to 8 p.m. e.d.t. on July 15, 2004.

Vessels transiting Area A must do so at no wake speed or at speeds not to exceed 6 knots, whichever is less. Vessels transiting Area A must not maneuver within 20 yards of a Tall Ship or other vessel participating in the Tall Ships Rhode Island 2004 event, unless authorized by the Captain of the Port (COTP) Providence or her designated on-scene representatives. On-scene representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Regulated Navigation Area "B" (Area B) is needed to protect the maritime public and participating vessels from hazards to navigation associated with numerous spectator craft approaching

moored Tall Ships berthed at Goat Island and CGC EAGLE berthed at State Pier for the Tall Ships Rhode Island 2004 event.

Area B includes all waters within Newport Harbor south of Goat Island Causeway and north to an east-west line along latitude 41°29'00"N between a point just southwest of Christie's Landing, Newport, in approximate position 41°29'00"N and 71°18'58"W, and the southern tip of Goat Island. This Regulated Navigation Area will be effective from 6 a.m. e.d.t. on July 15, 2004, to noon e.d.t. on July 19, 2004.

Vessels transiting Area B must do so at speeds of at least 3 knots or at no wake speed whichever is more, but not to exceed 6 knots. Vessels transiting Area B must not maneuver within 20 yards of a moored Tall Ship or other vessels participating in the Tall Ships Rhode Island 2004 event, unless authorized by the COTP Providence or her designated on-scene representatives. On-scene representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard. Vessels must enter Area B from the eastern side of Newport Harbor, proceed north in a counterclockwise direction to a turning point south of the causeway, and continue to proceed south along the western side of Newport Harbor to the exit of Area B.

For vessels other than the Tall Ships, those vessels proceeding under sail when not also propelled by machinery, are not allowed in Area B due to increased difficulty in maintaining required speed of advance while sailing, as well as limited maneuvering ability to proceed in a single file behind numerous other spectator craft viewing the moored Tall Ships.

Regulated Navigation Area "C" (Area C) is needed to protect the maritime public as well as passenger-for-hire and excursion vessels greater than 50 feet that may be anchored in the East Passage, Narragansett Bay, from hazards to navigation associated with numerous spectator craft during the Parade of Sail.

Area C encompasses that portion of temporary anchorage Potter Cove which includes all waters of charted Anchorage A in the East Passage, Narragansett Bay, that lay north of the Claiborne Pell/Newport Bridge and west of the Picket Line Safety and Security Zone set forth in this regulation. This Regulated Navigation Area is effective from 10 a.m. e.d.t. on July 19, 2004 to 8 p.m. e.d.t. on July 19, 2004.

Vessels transiting Area C must do so at no wake speed or at speeds not to exceed 6 knots, whichever is less. Vessels transiting Area C must not maneuver within 20 yards of an

excursion vessel and passenger-for-hire vessel greater than 50 feet permitted to anchor within this area for the viewing of the Parade of Sail, unless authorized by the COTP Providence or her designated on-scene representatives. On-scene representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Anchorage Regulations

The Coast Guard is establishing two temporary Anchorage regulations for Tall Ships participating in the Tall Ships Challenge hosted by the American Sail Training Association, vessels participating in the Tall Ships Rhode Island 2004 event, and authorized excursion and passenger-for-hire vessels greater than 50 feet in length. These regulations will restrict all other vessels from using the Anchorage Grounds during various portions of the Tall Ships Rhode Island 2004 event. These Anchorage Grounds are needed to provide a safe and secure anchorage area for participating Tall Ships prior to berthing at Goat Island, and to provide a safe viewing area for excursion and passenger-for-hire spectator vessels, thereby reducing congestion and traffic conflicts with smaller spectator vessels, while maintaining a clear parade route for the Tall Ships participating in the Parade of Sail.

The Coast Guard is establishing temporary Anchorage "Potter Cove" exclusively for Tall Ships participating in ASTA's Tall Ships Challenge and vessels participating in the Tall Ships Rhode Island 2004 Festival. Temporary Anchorage Potter Cove will be of the same coordinates of the existing Anchorage A (set forth in 33 CFR 110.145(a)(1)) in the East Passage, Narragansett Bay, that lay north of the Claiborne Pell/Newport Bridge, and will be established from 6 a.m. e.d.t. on July 14, 2004 until 8 p.m. e.d.t. on July 15, 2004.

The Coast Guard is establishing temporary Anchorage "Potter Cove II" exclusively for spectator vessels greater than 50 feet in length carrying passengers-for-hire for the viewing of the Parade of Sail. Temporary Anchorage Potter Cove II will be of the same coordinates of the existing Anchorage A in that portion that lies north of the Claiborne Pell/Newport Bridge and west of the Safety and Security Zone Picket Line, and will be established from 10 a.m. e.d.t. on July 19, 2004 until 8 p.m. e.d.t. on July 19, 2004.

Anchorage Potter Cove and Potter Cove II will be entirely within the same area as the Regulated Navigation Area "A". Therefore vessels other than those

participating in ASTA's Tall Ships Challenge and the Tall Ships Rhode Island 2004 event as well as authorized spectator vessels, will not be permitted to anchor and must transit at reduced speeds staying at least 20 yards away from any Tall Ship and authorized spectator vessels.

Safety and Security Zones

The Coast Guard is establishing two Safety and Security Zones for the Tall Ships Rhode Island 2004 event.

Safety and Security Zone "Staging Area" is a staging area for the Parade of Sail participants just seaward of and adjacent to the East Passage, Narragansett Bay, and extending in a 1000 yard radius from a point at latitude 41°25'00"N, longitude 71°23'00"W. Coordinates are in North American Datum, (NAD) 1983. Safety and Security Zone "Staging Area" will be in effect from 10 a.m. e.d.t. on July 19, 2004 until 8 p.m. e.d.t. on July 19, 2004.

Safety and Security Zone "Picket Line" covers all waters of the East Passage, Narragansett Bay, within the following boundaries: Beginning at approximate position 41°27'19"N, 71°23'08"W, which marks the western end of the Parade of Sail start line, then northward to the Lighted Gong Buoy "7" (LLNR 17800) in approximate position 41°28'18"N, 71°22'14"W, then to the Lighted Gong Buoy "9" (LLNR 17805) in approximate position 41°28'38"N, 71°21'15"W, then to the Lighted Bell Buoy "11" (LLNR 17810) in approximate position 41°29'00"N, 71°21'00"W, then to approximate position 41°29'33"N, 71°21'04"W, then to approximate position 41°30'19"N, 71°21'04"W below the Claiborne Pell/Newport Bridge, then to approximate position 41°31'07"N, 71°21'17"W, then to approximate position 41°31'49"N, 71°21'26"W, then to approximate position 41°32'30"N, 71°21'22"W, then to approximate position 41°33'00"N, 71°21'17"W, then to the U.S. Navy Buoy "E" in approximate position 41°33'38"N, 71°21'00"W, then to the U.S. Navy Buoy "F" in approximate position 41°33'52"N, 71°20'27"W, then to the charted Halfway Rock in approximate position 41°33'48"N, 71°19'55"W. The Safety and Security Zone Picket Line will continue southward to approximate position 41°33'14"N, 71°19'125"W, then to approximate position 41°32'28"N, 71°19'306"W, then to approximate position 41°31'55"N, 71°19'427"W, then to the Lighted Bell Buoy "14" (LLNR 17940) in approximate position 41°31'00"N, 71°20'04"W, then to approximate position 41°30'28"N, 71°20'21"W, then to approximate

position 41°30'12", 71°20'30"W below the Claiborne Pell/Newport Bridge, then to the Mitchell Rock Gong Buoy "3" (LLNR 17865) in approximate position 41°29'34"N, 71°20'11"W, then to the Goat Island Southwest Buoy "1" (LLNR 17825) in approximate position 41°28'57"N, 71°19'14"W, then to approximate position 41°29'30"N, 71°20'13"W, then to approximate position 41°28'22"N, 71°20'00"W, then to approximate position 41°27'55"N, 71°21'43"W, then to the Bell Buoy "6" (LLNR 17790) in approximate position 41°27'27"N, 71°21'57"W, then to approximate position 41°26'57"N, 71°21'57"W, which marks the eastern end of the Parade of Sail start line. This Safety and Security Zone will be used for the Tall Ships Parade of Sail parade route and is effective from 10 a.m. e.d.t. on July 19, 2004 until 8 p.m. e.d.t. on July 19, 2004. All coordinates are NAD 1983. All pleasure craft 10 feet and under in length are not allowed within 200 yards of the Picket Line since their presence will dramatically decrease crowd control capability, thus creating further safety and security concerns for all participants. This Safety and Security Zone is designed to fit the needs of safety by facilitating the transit of participating vessels through the parade route and minimizing the impact on the maritime community.

No vessel may enter, remain in, or transit within the Safety and Security Zone Picket Line unless authorized by the Coast Guard COTP Providence or her on-scene designated representatives as defined above. Each person or vessel in a safety zone shall obey any direction or order of the COTP.

This safety and security zone regulation is enforceable by the terms set forth by 33 United States Code (U.S.C.) 1232. Enforcement of violations of these regulations may include, in addition to any civil and criminal penalties authorized by 33 U.S.C. 1232, *in rem* liability against the offending vessel as well as license sanctions against the offending mariner. This regulation is published under the authority contained in title 33 U.S.C. 1223 and 1225, and the regulations promulgated thereunder.

Discussion of Rule

This rule provides for the safety and security of spectator craft, mariners, and the Tall Ships themselves while the Tall Ships are: anchored prior to berthing availability at Goat Island, loitering while awaiting tug escort to their assigned berths, while berthed at Goat Island and State Pier, Newport, Rhode Island, during the Tall Ships Rhode Island 2004 event, loitering and making

preparations in the staging area prior to the Parade of Sail, and proceeding in the Parade of Sail. During the Parade of Sail, the Tall Ships will be under way, most likely under sail, and with limited mobility. The actual Parade of Sail is scheduled to last approximately eight hours, beginning at noon e.d.t. on July 19, 2004 and ending at approximately 8 p.m. e.d.t. on July 19, 2004. The parading vessels will muster at a staging area just seaward of the East Passage, Narragansett Bay, and then transit north through the East Passage, underneath the Claiborne Pell/Newport Bridge, then to a turning point just south of the charted Halfway Rock, then return south through the East Passage, underneath the Claiborne Pell/Newport Bridge, then exit the parade route and head for sea.

This rule gives the Coast Guard the authority to ensure the safety of all vessels participating in the Tall Ships Rhode Island 2004 event as well as spectators and recreational craft enjoying the event.

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. These regulations involve only the southern portion of Narragansett Bay and will close the East Passage to commercial traffic only during the eight-hour window for the Parade of Sail on July 19, 2004. The West Passage will remain open to vessel traffic at all times. The impact of this regulation will not be significant because the majority of these regulations will be in effect for approximately eight hours, the expected duration of the Parade of Sail, and most vessel traffic can pass safely around affected areas of the East Passage by transiting through the West Passage, Narragansett Bay. Additionally, extensive advanced notifications will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, local port safety committee meetings, area newspapers, and e-mail Marine Safety Information Bulletins. Mariners will be able to adjust their plans accordingly based on the

extensive advance information. Additionally, the regulated navigation area, anchorage grounds, and safety and security zones have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety and protection deemed necessary.

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.

This rule may affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Narragansett Bay on July 14 and July 15, 2004, and particularly during the Parade of Sail on July 19, 2004, when the navigation channel in the East Passage, Narragansett Bay, is closed to all traffic except vessels participating in the Parade of Sail.

These regulations will not have a significant economic impact on a substantial number of small entities for the following reasons. The regulations affecting navigation in the East Passage, Narragansett Bay, will be in effect temporarily, and only for those periods of time necessary for the safety and security of the Tall Ships Rhode Island 2004 event participants. Recreational vessel traffic can pass safely around designated safety and security zones and anchorages. Additionally, designated areas for viewing the Parade of Sail have been established to allow for use by commercial tour boats that usually operate in the area. Before the effective periods, the Coast Guard will make notification to the public via Local Notice to Mariners and Broadcast Notice to Mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard 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 this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant P. Garcia, Waterways Management, MSO Providence, at (401) 435–2363.

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 will 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 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 will 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)(f) and (g), of the Instruction, from further environmental documentation. An “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are available in the docket where indicated under

ADDRESSES.

List of Subjects

33 CFR Part 110

Anchorage grounds.

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 parts 110 and 165 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035 and 2071; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

■ 2. From 6 a.m. e.d.t. on July 14, 2004 to 8 p.m. e.d.t. on July 19, 2004, temporarily amend § 110.145 by adding the following paragraphs (a)(6), (a)(7), (d)(7), and (d)(8) to read as follows:

§ 110.145 Narragansett Bay, RI.

- (a) * * *
- (6) *Anchorage Potter Cove.* (i) Temporary Anchorage Potter Cove is of the same coordinates as that portion of charted Anchorage A that lies north of the Claiborne Pell/Newport Bridge, defined in paragraph (a)(1) above.
- (ii) This paragraph will be enforced from 6 a.m. e.d.t. on July 14, 2004 until 8 p.m. e.d.t. on July 15, 2004.
- (7) *Anchorage Potter Cove II.* Temporary Anchorage Potter Cove II is

of the same coordinates as that portion of charted Anchorage A (defined in paragraph (a)(1) above) in the East Passage, Narragansett Bay, that lay north of the Claiborne Pell/Newport Bridge and west of the temporary Safety and Security Zone Picket Line set forth in 33 CFR 165.T01-088(a)(2).

* * * * *

(d) * * *

(7)(i) Temporary Anchorage Potter Cove is designated for the exclusive use of vessels participating in the American Sail Training Association (ASTA's) Tall Ships Challenge, that will arrive on July 14, 2004, and await berthing availability on Goat Island.

(ii) *Enforcement period.* This paragraph will be enforced from 6 a.m. e.d.t. on July 14, 2004 until 8 p.m. e.d.t. on July 15, 2004.

(8)(i) Temporary Anchorage Potter Cove II is designated for the exclusive use of spectator vessels exceeding 50 feet in length carrying passengers-for-hire for the viewing of the Tall Ships Parade of Sail.

(ii) *Enforcement period.* This paragraph will be enforced from 10 a.m. e.d.t. on July 19, 2004 until 8 p.m. e.d.t. on July 19, 2004.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 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.

■ 4. From 10 a.m. e.d.t. on July 19, 2004 to 8 p.m. e.d.t. on July 19, 2004, temporarily add § 165.T01-088 to read as follows:

§ 165.T01-088 Safety and Security Zones: Tall Ships Rhode Island 2004, Narragansett Bay, Rhode Island.

(a) *Regulated area.* The following areas are established as Safety and Security Zones:

(1) *Staging area safety and security zone:* All waters just seaward of and adjacent to the East Passage, Narragansett Bay, Rhode Island, within a 1000 yard radius from a point at latitude 41°25'00"N, longitude 71°23'00"W. All coordinates are NAD 1983.

(2) *Picket Line safety and security zone:* All waters of the East Passage, Narragansett Bay, Rhode Island, within the following boundaries: Beginning at approximate position 41°27'19"N, 71°23'08"W, which marks the western end of the Parade of Sail start line, then northward to the Lighted Gong Buoy

“7” (LLNR 17800) in approximate position 41°28'18"N, 71°22'14"W, then to the Lighted Gong Buoy “9” (LLNR 17805) in approximate position 41°28'38"N, 71°21'15"W, then to the Lighted Bell Buoy “11” (LLNR 17810) in approximate position 41°29'00"N, 71°21'00"W, then to approximate position 41°29'33"N, 71°21'04"W, then to approximate position 41°30'19"N, 71°21'04"W below the Claiborne Pell/Newport Bridge, then to approximate position 41°31'07"N, 71°21'17"W, then to approximate position 41°31'49"N, 71°21'26"W, then to approximate position 41°32'30"N, 71°21'22"W, then to approximate position 41°33'00"N, 71°21'17"W, then to the U.S. Navy Buoy “E” in approximate position 41°33'38"N, 71°21'00"W, then to the U.S. Navy Buoy “F” in approximate position 41°33'52"N, 71°20'27"W, then to the charted Halfway Rock in approximate position 41°33'48"N, 71°19'55"W. The Safety and Security Zone Picket Line will continue southward to approximate position 41°33'14"N, 71°19'125"W, then to approximate position 41°32'28"N, 71°19'306"W, then to approximate position 41°31'55"N, 71°19'427"W, then to the Lighted Bell Buoy “14” (LLNR 17940) in approximate position 41°31'00"N, 71°20'04"W, then to approximate position 41°30'28"N, 71°20'21"W, then to approximate position 41°30'12"N, 71°20'30"W below the Claiborne Pell/Newport Bridge, then to the Mitchell Rock Gong Buoy “3” (LLNR 17865) in approximate position 41°29'34"N, 71°20'11"W, then to the Goat Island Southwest Buoy “1” (LLNR 17825) in approximate position 41°28'57"N, 71°19'14"W, then to approximate position 41°29'30"N, 71°20'13"W, then to approximate position 41°28'22"N, 71°20'00"W, then to approximate position 41°27'55"N, 71°21'43"W, then to the Bell Buoy “6” (LLNR 17790) in approximate position 41°27'27"N, 71°21'57"W, then to approximate position 41°26'57"N, 71°21'57"W, which marks the eastern end of the Parade of Sail start line. All coordinates are NAD 1983.

(b) *Regulations.* No vessels may transit within the Safety and Security Zone Staging Area or the Safety and Security Zone Picket Line without the express authorization of the Coast Guard Captain of the Port (COTP) Providence or her designated on-scene representative. All pleasure craft 10 feet and under in length are not allowed within 200 yards of the Picket Line. All persons and vessels shall comply with the instructions of the COTP or her designated on-scene representative. On-

scene representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by siren, radio, flashing light, or other means, the operator of the vessel shall proceed as directed.

(c) *Enforcement period.* This section will be enforced from 10 a.m. e.d.t. on July 19, 2004 until 8 p.m. e.d.t. on July 19, 2004.

■ 5. From 6 a.m. e.d.t. on July 14, 2004 to 8 p.m. e.d.t. on July 15, 2004, temporarily add § 165.T01-089 to read as follows:

§ 165.T01-089 Regulated Navigation Areas: Tall Ships Rhode Island 2004, Narragansett Bay, Rhode Island.

(a) *Regulated area.*

(1) *Regulated Navigation Area A.* (i) The following area is a Regulated Navigation Area: All waters of charted Anchorage A (set forth in 33 CFR 110.145(a)(1)) in the East Passage, Narragansett Bay, that lay north of the Claiborne Pell/Newport Bridge. (The portion of Anchorage A south of the Claiborne Pell/Newport Bridge is not affected by these regulations.)

(ii) *Enforcement period.* This section will be enforced from 6 a.m. e.d.t. on July 14, 2004 to 8 p.m. e.d.t. on July 15, 2004.

(2) *Regulated Navigation Area B.* (i) The following area is a Regulated Navigation Area: All waters within Newport Harbor south of Goat Island Causeway and north to an east-west line along latitude 41°29'00"N between a point just southwest of Christie's Landing, Newport, in approximate position 41°29'00"N and 71°18'58"W, and the southern tip of Goat Island.

(ii) *Enforcement period.* This section will be enforced from 6 a.m. e.d.t. on July 15, 2004 until noon e.d.t. on July 19, 2004.

(3) *Regulated Navigation Area C.* (i) The following area is a Regulated Navigation Area: All waters of charted Anchorage A (set forth in 33 CFR 110.145(a)(1)) in the East Passage, Narragansett Bay, that lay north of the Claiborne Pell/Newport Bridge and west of the temporary Safety and Security Zone Picket Line set forth in 33 CFR 165.T01-088(a)(2). (The portion of Anchorage A south of the Claiborne Pell/Newport Bridge and east of the temporary Safety and Security Zone Picket Line are not affected by these regulations.)

(ii) *Enforcement period.* This section will be enforced from 10 a.m. e.d.t. on July 19, 2004 to 8 p.m. e.d.t. on July 19, 2004.

(b) *Regulations.* (1)(i) Vessels transiting Regulated Navigation Area A must do so at no wake speed or at

speeds not to exceed 6 knots, whichever is less.

(ii) Vessels transiting this area must not maneuver within 20 yards of a Tall Ship or other vessel participating in the Tall Ships Rhode Island 2004 Festival (identified by a Tall Ships Rhode Island 2004 flag), unless authorized by the Coast Guard Captain of the Port (COTP) Providence or her designated on-scene representative. On-scene representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(2)(i) Vessels transiting Regulated Navigation Area B must do so at speeds of at least 3 knots or at no wake speed whichever is more, but not to exceed 6 knots.

(ii) Vessels transiting this area must not maneuver within 20 yards of a moored Tall Ship, unless authorized by the Coast Guard Captain of the Port (COTP) Providence or her designated on-scene representative. On-scene representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(iii) Vessels must enter Regulated Navigation Area B in a counterclockwise direction, proceed north along the eastern side of Newport Harbor to a turning point south of the causeway in approximate position 41°29'28"N and 71°19'40"N, then proceed south down the western side of Newport Harbor and exit the area to the left side of the entrance.

(iv) For vessels other than the Tall Ships, those vessels proceeding under sail when not also propelled by machinery, are not allowed in Area B due to increased difficulty in maintaining required speed of advance while sailing, as well as limited maneuvering ability to proceed single file behind numerous other spectator craft viewing the moored Tall Ships.

(3)(i) Vessels transiting Regulated Navigation Area C must do so at no wake speed or at speeds not to exceed 6 knots, whichever is less.

(ii) Vessels transiting Regulated Navigation Area C must not maneuver within 20 yards of an excursion vessel and passenger-for-hire vessel greater than 50 feet permitted to anchor within this area, unless authorized by the COTP Providence or her on-scene representative. On-scene representatives comprise of commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: July 9, 2004.

David P. Pekoske, Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 04-16099 Filed 7-12-04; 2:53 pm]

BILLING CODE 4910-15-P

POSTAL SERVICE

39 CFR Part 3

Amendment to Bylaws of the Board of Governors

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: On June 15, 2004, the Board of Governors of the United States Postal Service adopted a revision to its bylaws. The purpose of this revision was to reserve the selection of the independent external auditor to the Presidentially-appointed Governors rather than the full Board of Governors. Consequently, the Postal Service hereby publishes this final rule.

EFFECTIVE DATE: June 15, 2004.

FOR FURTHER INFORMATION CONTACT: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260-1000, (202) 268-4800.

SUPPLEMENTARY INFORMATION: This document publishes a revision to 39 CFR 3.3 and 3.4 of the Bylaws of the Board of Governors of the United States Postal Service. The Board removed and reserved § 3.3(o) which reserved for the full Board the selection of the independent outside auditor. The Board added a new paragraph (k) to § 3.4 to reserve for the Governors the selection of the independent outside auditor. The changes were adopted by the Board on June 15, 2004. The purpose of the changes was to reserve the selection of the independent external auditor to the Presidentially-appointed Governors rather than the full Board of Governors.

List of Subjects in 39 CFR Part 3

Administrative Practice and procedure, Organization and functions (Government agencies), Postal Service.

Accordingly, sections 3.3 and 3.4 of title 39 CFR are amended as follows:

PART 3—BOARD OF GOVERNORS (ARTICLE 111)

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

Authority: 39 U.S.C. 202, 203, 205, 401(2), (10), 402, 414, 416, 1003, 2802-2804, 3013; 5 U.S.C. 552b(g), (j); Inspector General Act, 5 U.S.C. app.; Pub. L. 107-67, 115 Stat. 514 (2001).

2. Section 3.3 is amended by removing and reserving paragraph (o).

§3.3 Matters reserved for decision by the Board.

* * * * *

(o) [Reserved]

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3. Section 3.4 is amended by adding new paragraph (k) to read as follows:

§3.4 Matters reserved for decision by the Governors.

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(k) Selection of an independent, certified public accounting firm to certify the accuracy of Postal Service financial statements as required by 39 U.S.C. 2008(e).

Neva Watson,

Attorney, Legislative.

[FR Doc. 04-16023 Filed 7-14-04; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 295-0441w; FRL-7787-2]

Withdrawal of Direct Final Rule Revising the California State Implementation Plan, Great Basin Unified Air Pollution Control District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On June 7, 2004 (69 FR 31739), EPA published a direct final approval of revisions to the California State Implementation Plan (SIP). These revisions concerned GBUAPCD Rule 406, Open Outdoor Fires, GBUAPCD Rule 407, Incinerator Burning, and Ventura County Rule 56, Open Burning. The direct final action was published without prior proposal because EPA anticipated no adverse comment. The direct final rule stated that if adverse comments were received by July 7, 2004, EPA would publish a timely withdrawal in the Federal Register. EPA received a timely adverse comment and is, therefore, withdrawing the direct final approval. EPA will address the comment in a subsequent final action based on the parallel proposal also published on June 7, 2004 (69 FR 31782). As stated in the parallel proposal, EPA will not institute a second comment period on this action. Accordingly, the revision to 40 CFR 52.220, published in the Federal Register on June 7, 2004 (69 FR 31739), which was to become effective on August 6, 2004, is withdrawn.

DATES: The direct final rule published on June 7, 2004, at 69 FR 31739, is withdrawn as of July 15, 2004.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR-4),