

**Environment**

We have considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

**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.

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

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09-914 is added to read as follows:

**§ 165.T09-914 Safety Zone: Lake Michigan, Holland, MI.**

(a) *Location.* The following area is a safety zone: The waters of Lake Michigan off Holland State Park North Pier, bounded by the sides of a triangle with corners in approximate positions: 42°46'24" N, 086°12'57" W; 42°46'25" N, 086°14'08" W; 42°47'09" N, 086°13'33" W.

(b) *Effective Date.* This safety zone is effective from 9 a.m. (local) until 2 p.m. (local), June 2, 2001.

(c) *Regulations.* This safety zone is being established to protect the boating public in the vicinity of a planned rocket launch show over Lake Michigan. In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated Patrol Commander.

Dated: May 16, 2001.

**R. E. Seebald,**

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

[FR Doc. 01-14097 Filed 6-4-01; 8:45 am]

**BILLING CODE 4910-15-U**

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 165**

[CGD01-01-075]

RIN 2115-AA97

**Safety Zone: USS DOYLE Port Visit—Boston, Massachusetts**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the USS DOYLE port visit from 7 a.m. June 1, 2001 until 2 p.m. June 4, 2001 in Boston, MA. The safety zone temporarily closes all waters of Boston Inner Harbor within a seventy five (75) foot radius of the USS DOYLE. The safety zone prohibits entry into or movement within this portion of Boston Inner Harbor during the effective period without Captain of the Port authorization. The safety zone is needed to protect the maritime community from the hazards caused by the transit of a large naval vessel, as well as to safeguard the USS DOYLE, the public and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature.

**DATES:** This rule is effective from 7 a.m. Friday, June 1 until 2 p.m. Monday, June 4, 2001.

**ADDRESSES:** Documents as indicated in this preamble are part of docket CGD01-01-75 and are available for inspection or copying at Marine Safety Office Boston, 455 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:** Lieutenant (junior grade) Dave Sherry, Marine Safety Office Boston, Waterways Management Division, at (617) 223-3006.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after Federal

Register publication. Due to security concerns for the vessel, information about the port call of the USS DOYLE was not provided to the Coast Guard until May 14, 2001, making it impossible to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to protect the maritime community from hazards created by a large naval vessel's transit through Boston Harbor. In addition, immediate action is needed to safeguard the USS DOYLE, the public and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature. This temporary safety zone is only effective for a three day long port call and should have negligible impact on vessel transits due to the fact that vessels can safely transit around the zone and that they are not precluded from using any portion of the waterway except the safety zone area itself.

**Background and Purpose**

This regulation establishes a moving safety zone on the waters of Boston Inner Harbor seventy five (75) foot radius of the USS DOYLE during its inbound and outbound transits between the BG buoy and Pier One in the Charlestown Navy Yard in Boston Inner Harbor. A stationary safety zone will remain effective while at its temporary berth at Pier One in the Charlestown Navy Yard. The safety zone is in effect from 7 a.m. June 1 until 2 p.m. June 4, 2001. This safety zone prohibits entry into or movement within this portion of Boston Harbor and is needed to protect the maritime community from hazards created by a large naval vessel's transit, to safeguard the USS DOYLE, the public and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature. Marine traffic may transit safely outside of the safety zone during the inbound and outbound transit between the BG buoy and Pier One in the Charlestown Navy Yard, and while the vessel is moored in the Charlestown Navy Yard. The Captain of the Port does not anticipate any negative impact on vessel traffic due to the establishment of this safety zone. 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 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 Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of Boston Harbor, the effect of this regulation will not be significant for several reasons: the minimal time that vessels will be restricted from the area, the limited extent of the safety zone, the ability for vessels to safely transit outside of the safety zone, and the advance notifications which will be made to the local maritime community by marine information broadcasts.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard 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 Boston Inner Harbor between 7 a.m. on June 1, 2001 and 2 p.m. on June 4, 2001. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the safety zone is only 75 feet surrounding the USS DOYLE, permitting vessel traffic to safely pass outside of the safety zone, the safety zone is limited in duration, and the Coast Guard will issue marine information broadcasts before the effective period widely available to users of the Harbor.

#### Assistance for Small Entities

Due to the short notice of the need for this regulation the Coast Guard did not have time to assist small entities under section 213(a) of the Small Business

Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121).

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

The Coast Guard analyzed this rule under E.O. 13132 and has determined that this rule does not have implications for federalism under that Order.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government’s having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

#### Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under E.O. 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 E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

The Coast Guard analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose 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. A rule with tribal implications has 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.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.IC, this proposed rule is categorically excluded from further environmental documentation. A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

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

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

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

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.

2. Add temporary § 165.T01–075 to read as follows:

#### § 165.T01–075 Safety Zone: USS DOYLE Port Visit—Boston, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of Boston Inner Harbor within a seventy five (75) foot radius of the USS DOYLE during its inbound and outbound transits between the “BG” Buoy and Pier One at the Charlestown Navy Yard. The safety zone shall remain in effect while the USS DOYLE is moored at Pier One in the Charlestown Navy Yard.

(b) *Effective Date.* This section is effective from 7 a.m. on Friday, June 1, 2001 until 2 p.m. on Monday, June 4, 2001.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the

designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: May 17, 2001.

**B. M. Salerno,**

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

[FR Doc. 01-14098 Filed 6-4-01; 8:45 am]

BILLING CODE 4910-15-U

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### 33 CFR Part 207

#### St. Marys Falls Canal and Locks, Michigan; Use, Administration and Navigation

**AGENCY:** Army Corps of Engineers, DoD.  
**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers is amending its regulations on procedures to navigate the St. Marys Falls Canal and Soo Locks at Sault Ste. Marie, Michigan, to incorporate changes in navigation safety procedures published in three Notice to Navigation Interests issued on March 29, 2000. The St. Marys Falls Canal and Locks navigation regulation is amended to delete reference to oil tankers having draft and beam permitting transit through the Canadian lock, since the Canadian lock no longer handles oil tankers. The regulation will also prohibit the cleaning and gas freeing of tanks on all hazardous material cargo vessels while either in the lock or while in any part of the Soo Locks approach canals. As an additional vessel safety measure, whenever a tank vessel is within the limits of the lock piers either above or below the locks, vessel movement will be limited to a single vessel, unless the tanker is certified gas free or is carrying non-combustible products. The regulation will allow tankers with any type cargo to transit the MacArthur Lock when the locks park is closed, while tankers carrying non-combustible products or tankers certified gas free will be allowed to transit the MacArthur Lock when the park is open. The regulation clarifies that vessels, except U.S. vessels of war and public vessels (as defined in 46 U.S.C. 2101), carrying explosives are prohibited from transiting U.S. Locks. **DATES:** The final rule is effective July 5, 2001.

**ADDRESSES:** U.S. Army Corps of Engineers, ATTN: CECW-OD, 441 G Street, NW., Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jim Hilton, Dredging and Operations Branch (CECW-OD) at (202) 761-4669 or Mr. David L. Dulong, Chief, Engineering Technical Services, Detroit District at (313) 226-6794.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authority in Section 4 of the Rivers and Harbors Act of August 18, 1894 (40 Stat. 266; 33 U.S.C. 1), the Corps is amending the regulations in 33 CFR 207.441(b)(4) and (5). The regulation governing the operation of the St. Marys Falls Canal and Locks, 33 CFR 207.441 was adopted on March 6, 1954, (19 FR 1275) and has been amended at various times.

Paragraph (b) is amended to delete reference to classes of vessels permitted to transit the U.S. locks or enter any of the United States approach canals. Paragraph (b)(4) is further amended by deleting reference to oil tankers being permitted to transit through the Canadian lock, as the Canadian lock has been refurbished and can no longer accommodate oil tankers. In addition, paragraph (b)(4) is amended by deleting reference to personnel smoking onboard tankers while in the lock area, as prohibiting smoking is included in 33 CFR 207.440(s). Paragraph (b)(4) is amended and rewritten to improve vessel safety by adding subparagraphs (i), (ii), and (iii). Subparagraph (b)(4)(i) prohibits the cleaning and gas freeing of tanks on all hazardous material cargo vessels (as defined in 49 CFR part 171), while the vessel is either in the lock or in any part of the Soo Locks approach canals from the outer end of the east center pier to the outer end of the southwest pier. Subparagraph (b)(4)(ii) is added for safety purposes to limit vessel movement to a single vessel whenever a tank vessel carrying hazardous cargo is within the limits of the lock piers either above or below the locks, unless the vessel is certified gas free or is carrying non-combustible products. Subparagraph (b)(4)(iii) is added to allow tankers carrying any type of cargo to transit MacArthur Lock when the locks park is closed. Tankers certified gas free or carrying non-combustible products that will not react hazardously with water will be allowed to transit MacArthur Lock when the park is open.

Paragraph (b)(5) is amended to add a phrase to clarify that vessels, except U.S. vessels of war or public vessels as defined in 46 U.S.C. 2101, carrying

explosives are prohibited from transiting the U.S. Locks.

This final rule is not a major rule for the purposes of Executive Order 12866. As required by the Regulatory Flexibility Act, the Corps certifies that this final rule will not have a significant impact on small business entities.

#### Comments on the Proposed Rule

Three comments were received to the January 23, 2001, **Federal Register** proposed rule and the January 23, 2001, public notice issued by the Detroit District. Two industry comments requested a clarifying phrase be added to § 207.441(4)(ii)(iii) to allow the release of a vessel from the lock in the direction of an approaching tank vessel, if the tanker is certified gas free and allow tankers certified gas free to transit the lock when MacArthur Lock park is open. We concur with adding the phrase "unless the vessel is certified gas free or is carrying non-combustible products". One comment requested that U.S. vessels of war and public vessels, as defined in 46 U.S.C. 2101, be exempt from the provision of being prohibited from transiting the U.S. Locks carrying explosives. We concur with this exemption.

#### List of Subjects in 33 CFR Part 207

Navigation (water), Penalties, Reporting and recordkeeping requirements, Waterways.

For reasons set out in the preamble, Title 33, Chapter II of the Code of Federal Regulations is amended as follows:

#### PART 207—NAVIGATION REGULATIONS

1. The authority citation for part 207 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1).

2. Section 207.441 is amended by revising paragraphs (b)(4) and (b)(5) to read as follows:

#### § 207.441 St. Marys Falls Canal and Locks, Mich.; security.

\* \* \* \* \*

(b) *Restrictions on transit of vessels.*

\* \* \*

(1) *Tanker vessels*—(i) *Hazardous material.* Cleaning and gas freeing of tanks on all hazardous material cargo vessels (as defined in 49 CFR part 171) shall not take place in a lock or any part of the Soo Locks approach canals from the outer end of the east center pier to the outer end of the southwest pier.

(ii) *Approaching.* Whenever a tank vessel is approaching the Soo Locks and within the limits of the lock piers (outer ends of the southwest and east center