

2. From 8:30 p.m. until 10 p.m. on July 4, 2005, add temporary § 165.T01-039 to read as follows:

**§ 165.T01-039 Safety Zone; Town of Marblehead Fourth of July Fireworks Display, Marblehead, Massachusetts**

(a) *Location.* The following area is a safety zone: All waters of Marblehead Harbor within a 400-yard radius of the fireworks barge located at approximate position 42°30'548" N, 070°50'098" W.

(b) *Effective date.* This section is effective from 8:30 p.m. until 10 p.m. EDT on July 4, 2005, with a rain date of 8:30 p.m. until 10 p.m. EDT on July 5, 2005.

(c) *Regulations.*

(1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone is 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 3, 2005.

**James L. McDonald,**

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

[FR Doc. 05-9533 Filed 5-12-05; 8:45 am]

BILLING CODE 4910-15-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD1-05-037]

RIN 1625-AA00

**Safety Zone; City of Lynn Fourth of July Celebration, Lynn, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone for the City of Lynn Fourth of July Celebration. 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 will prohibit entry into or movement within this portion of Nahant Bay during its effective period.

**DATES:** Comments and related material must reach the Coast Guard on or before June 13, 2005.

**ADDRESSES:** You may mail comments and related material to Sector Boston, 427 Commercial Street, Boston, MA. Sector Boston maintains the public docket for this rulemaking. 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 CGD01-05-037 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:** Chief Petty Officer Paul English, Sector Boston, Waterways Management Division, at (617) 223-3010.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for the rulemaking (CGD01-05-037), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related materials in an unbound format, no larger than 8.5 by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We may change this proposed rule in view of them.

**Public Meeting**

We do not plan to hold a public meeting. But you may submit a request for a meeting by writing to Sector Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

This proposed rule establishes a safety zone on the waters of Nahant Bay within a four hundred yard radius around the fireworks barge located at approximate position 42°27.686' N, 070°55.101' W. The safety zone would be in effect from 8:30 p.m. until 10:30 p.m. on July 3, 2005.

This safety zone is necessary to protect the life and property of the maritime public from the dangers posed by this event. It would protect the public by temporarily prohibiting entry into or movement within this portion of Nahant Bay.

**Discussion of Proposed Rule**

The Coast Guard proposes establishing a temporary safety zone in a portion of Nahant Bay. The temporary safety zone would be in effect from 8:30 p.m. EDT until 10:30 p.m. EDT on July 3, 2005. Marine traffic may transit safely outside of the safety zone during the event, thereby allowing navigation of Nahant Bay except for the portion delineated by this rule. This safety zone would control vessel traffic during the fireworks event to protect the safety of the maritime public.

Given the limited time frame of the fireworks display and because the zone leaves the majority of Nahant 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 media, local notice to mariners and marine information broadcasts.

**Regulatory Evaluation**

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary.

Although this regulation prevents vessel traffic from transiting into a portion of Nahant Bay during this event, the effect of this regulation will not be significant for several reasons: vessels will be excluded from the area of the safety zone for only two hours, vessels will be able to operate in the majority of Nahant Bay during this time 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), the Coast Guard considered whether this proposed 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 proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portion of Nahant Bay from 8:30 p.m. until 10:30 p.m. EDT July 3, 2005.

This safety zone would not have a significant economic impact on a substantial number of small entities for the reasons: Vessels traffic can safely pass outside of the safety zone during the effective period, the period is limited in duration, and advance notification via safety marine informational broadcast and local 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 this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would effect your small business, organization, and government jurisdiction and you have questions concerning its provisions or options for compliance, please contact Chief Petty Officer at the address listed under **ADDRESSES**. 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 would call 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 would 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 proposed 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 proposed 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 pose an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This proposed 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 proposed rule under Executive Order 13211, Actions Considering 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 proposed 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 Coast Guard Instruction M16475.1D, 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 2.B.2 of the Instruction. Therefore, we believe that this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation. A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. This rule fits the category selected from paragraph (34)(g), as it would establish a safety zone. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

#### 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 proposes to amend 33 CFR 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(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. From 8:30 p.m. until 10:30 p.m. on July 3, 2005, add temporary § 165.T01-037 to read as follows:

**§ 165.T01-037 Safety Zone; City of Lynn Fourth of July Celebration, Lynn, Massachusetts**

(a) *Location.* The following area is a safety zone:

All waters of Nahant Bay within a 400 yard radius of the fireworks barge site, at approximate position 42°27.686' N, 070°55.101' W.

(b) *Effective date.* This section is effective from 8:30 p.m. until 10:30 p.m. EDT on July 3, 2005.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone is 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 3, 2005.

**James L. McDonald,**

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

[FR Doc. 05-9531 Filed 5-12-05; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CCGD11-05-006]

RIN 1625-AA11

**Regulated Navigation Area; Humboldt Bay Bar Channel and Humboldt Bay Entrance Channel, Humboldt Bay, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes designating the Humboldt Bay Bar Channel and the Humboldt Bay Entrance Channel as a Regulated Navigation Area (RNA) for certain commercial vessels transporting oil or hazardous material as cargo. This action is necessary to reduce significant hazards to subject vessels, the port and the public that are present during periods of poor weather conditions. This RNA includes criteria for when the bar would close, notice requirements,

and procedures for waiver requests for vessels transporting oil or certain dangerous cargoes in bulk within Humboldt Bay.

**DATES:** Comments and related material must reach the Coast Guard on or before July 12, 2005.

**ADDRESSES:** You may mail comments and related material to the Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California 94501. The Waterways Management Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Waterways Management Branch between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant Doug Ebbers, Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437-2770.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CCGD11-05-006), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Waterways Management Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

**Background and Purpose**

Because Humboldt Bay has a breaking bar, a narrow entrance channel, and no

general anchorages within the bay, transits of this area present significant hazards to vessels carrying oil or hazardous material as cargo. The potential hazards to the subject vessels and the consequences of casualties involving commercial vessels carrying oil or hazardous material as cargo warrant special procedures to reduce the potential for a collision or grounding and any subsequent release of a cargo covered by this regulation.

Prior to the issuance of this proposed rule, the COTP issued several advisories addressing safe entry procedures for vessels transporting cargoes of oil or other hazardous material in the Humboldt Bay area. The most recent was a COTP Advisory put into effect in June of 1998 (COTP Advisory 01-98). This advisory included policies for when the bar would be closed to specified vessel traffic, notice requirements, vessel escort policies, and addressed parameters and procedures for waiver requests. In August of 2004, representatives from the Coast Guard Marine Safety Office San Francisco Bay met with Humboldt Bay stakeholders to review COTP Advisory 01-98. In attendance at this meeting were representatives from the California State Department of Fish and Game's Office of Oil Spill Prevention and Response, Humboldt Bay Coast Guard units, and local oil tank vessel operators. The COTP determined that although the policies contained within the COTP Advisory were appropriate, a rulemaking was needed to clearly establish the Coast Guard's authority to enforce them. In addition, it was decided that because Coast Guard Group Humboldt Bay is located near the Humboldt Bay Bar, the Group Commander would be better equipped to make timely judgments on bar conditions and to enforce this RNA. Therefore, the authority to enforce this RNA is being delegated to the Commanding Officer of Group Humboldt Bay.

In this rulemaking, the Coast Guard proposes to designate an area around the Humboldt Bay Bar as an RNA for the following purposes: (1) To establish the Coast Guard's authority to prohibit vessels carrying oil or hazardous material as cargo from crossing the bar during unsafe conditions, (2) to establish waiver, notice, and vessel escort policies, and (3) to delegate the authority for enforcing these regulations to the Humboldt Bay Group Commander.

**Discussion of Proposed Rule**

This proposed rule would designate the Humboldt Bay Bar Channel and the