

after the date these regulations are published as final regulations in the **Federal Register**.

\* \* \* \* \*

**Cono R. Namorato,**

*Acting Deputy Commissioner for Services and Enforcement.*

[FR Doc. 05-10267 Filed 5-20-05; 2:48 pm]

BILLING CODE 4830-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-05-042]

RIN 1625-AA00

#### **Safety Zone; Town of Hingham Fourth of July Fireworks Display, Hingham Inner Harbor, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishing a temporary safety zone for the Hingham Fourth of July Fireworks Display in Hingham, Massachusetts. This safety zone is necessary to protect the life and property of the maritime public from the potential hazards associated with a fireworks display. The safety zone would temporarily prohibit entry into or movement within a portion of Hingham Harbor during the closure period.

**DATES:** Comments and related material must reach the Coast Guard on or before June 24, 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 CGD01-05-042 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 (CGD01-05-042), 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 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 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 rule proposes to establish a safety zone on the waters of Hingham Harbor within a 400-yard radius of Button Island located at approximate position 42°15'5" N, 070°53'5" W. The safety zone would be in effect from 9 p.m. until 10:30 p.m. on July 2, 2005. The rain date for the fireworks event is from 9 p.m. until 10:30 p.m. on July 3, 2005.

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

#### **Discussion of Proposed Rule**

The Coast Guard is establishing a temporary safety zone in Hingham Harbor Inner, Hingham, Massachusetts. The safety zone would be in effect from 9 p.m. until 10:30 p.m. on July 2, 2005, with a rain date of 9 p.m. until 10:30 p.m. on July 3, 2005. Marine traffic may transit safely outside of the zone in the majority of Hingham Harbor during the event. This safety zone will control vessel traffic during the fireworks

display to protect the safety of the maritime public.

Due to the limited time frame of the firework display, 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 the regulatory policies and procedures of DHS is unnecessary.

Although this rule would prevent traffic from transiting a portion of Marblehead Harbor during the effective period, the effects of this rule 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 Hingham 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), 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 proposed rule would 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 Hingham Harbor from 9 p.m. to 10:30

p.m. on July 2, 2005 or during the same hours on July 3, 2005.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule would be in effect for only one and one half hours, vessel traffic can safely pass around the safety zone during the effected period, and advance notifications will be made to the local maritime community via marine informational broadcasts and Local Notice to Mariners.

If you think your business, organization, or government 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 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), 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 English 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 proposed 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 proposed 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 proposed 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 proposed rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This 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 proposed 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 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. 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. Add temporary section 165.T01-042 to read as follows:

**§165.T01-042 Safety Zone; Town of Hingham Fourth of July Fireworks Display, Hingham, Massachusetts.**

(a) *Location.* The following area is a safety zone: All waters of Hingham Harbor within a 400-yard radius of Button Island located at approximate position 42°15'5" N, 070°53'5" W.

(b) *Effective Date.* This section is effective from 9 p.m. until 10:30 p.m. on July 2, 2005, with a rain date of 9 p.m. until 10:30 p.m. on July 3, 2005.

(c) *Regulations.*

(1) In accordance with the general regulations in 33 CFR 165.23, 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 16, 2005.

**James L. McDonald,**

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

[FR Doc. 05-10421 Filed 5-24-05; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF DEFENSE

### Corps of Engineers, Department of the Army

#### 33 CFR Part 207

RIN 0710-AA62

#### Navigation Regulations

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The U.S. Army Corps of Engineers is proposing to establish a procedure for modifying scheduled operational hours at the Lake Washington Ship Canal, Hiram M. Chittenden Locks in Seattle, Washington. This procedure would allow the district engineer to change the scheduled operational hours of the locks after issuing a public notice and providing a 30-day comment period for any proposed change. Corrections are also made to two citations.

**DATES:** Comments must be submitted on or before July 25, 2005.

**ADDRESSES:** Written comments should be sent to the U.S. Army Corps of Engineers, Attn: CENWS-OD-TS-PS (Robert M. Rawson), P.O. Box 3755, Seattle, Washington 98124-3755, or by e-mail to [robert.m.rawson@usace.army.mil](mailto:robert.m.rawson@usace.army.mil).

**FOR FURTHER INFORMATION CONTACT:** Mr. John Post, Operations Manager, Hiram M. Chittenden Locks, at (206) 789-2622, Ms. Patricia Graesser, Public Affairs Office, (206) 764-3760, or Mr. Michael Kidby, Operations and Regulatory Community of Practice, Directorate of Civil Works, at (202) 761-0250.

**SUPPLEMENTARY INFORMATION:** This regulation has not been revised in over 40 years. Corrections need to be made to reflect current situation and changes to referenced regulations. Furthermore, there is a need to have a public notice and comment process in place to allow for changes in scheduled operation. The proposed change does not change the present operation but adds a process to allow for a change in schedule similar to that on the Columbia River. Note that the addition of this proposed schedule provision does not negate or limit the Corps' existing authority to restrict or reduce lockage operations.

#### Administrative Requirements

##### *Plain Language*

In compliance with the principles in the President's Memorandum of June 1, 1998, (63 FR 31855) regarding plain language, this preamble is written using plain language. The use of "we" in this notice refers to the Corps. We have also used the active voice, short sentences, and common everyday terms except for necessary technical terms.

##### *Paperwork Reduction Act*

This proposed action will not impose any new information collection burden under the provisions of the Paperwork Production Act (44 U.S.C. 3501 *et seq.*). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to, or for, a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of

information; and transmit or otherwise disclose the information.

Since the proposed rule does not involve any collection of information from the public, this action is not subject to the Paperwork Reduction Act.

##### *Executive Order 12866*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), an agency must determine whether the regulatory action is "significant" and therefore subject to review by OMB and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that the proposed rule is not a "significant regulatory action" because it does not meet any of these four criteria.

##### *Executive Order 13132*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires an agency to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." The phrase "policies that have Federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

The proposed rule does not have Federalism implications. We do not believe that amending this regulation will have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. The proposed rule