

amendments also include changes in the title of the Board official to whom requests for consolidation of employer records should be addressed.

Both the Regulatory Flexibility Act and the Unfunded Mandates Act of 1995 define "agency" by referencing the definition of "agency" contained in 5 U.S.C. 551(1). Section 551(1)(E) excludes from the term "agency" an agency that is composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them. The Railroad Retirement Board falls within this exclusion (45 U.S.C. 231f(a)) and is therefore exempt from the Regulatory Flexibility Act and the Unfunded Mandates Act.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this final rule under the threshold criteria of Executive Order 13132 and have determined that it would not have a substantial direct effect on the rights, roles, and responsibilities of States or local governments.

The Board published the proposed rule on June 14, 2004 (69 FR 32927), and invited comments by August 13, 2004. No comments were received. Accordingly, the proposed rule is being published as a final rule without change.

#### List of Subjects in 20 CFR Part 345

Electronic filing, Paperwork elimination, Railroad unemployment insurance, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, the Railroad Retirement Board amends title 20, chapter II, part 345 of the Code of Federal Regulations as follows:

#### PART 345—EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

■ 1. The authority citation for part 345 continues to read as follows:

**Authority:** 45 U.S.C. 362(l).

■ 2. Section 345.202 of subpart C is revised to read as follows:

#### § 345.202 Consolidated employer records.

(a) *Establishing a consolidated employer record.* Two or more employers that are under common ownership or control may request the Board to consolidate their individual employer records into a joint individual

employer record. Such joint individual employer record shall be treated as though it were a single employer record. A request for such consolidation shall be made to the Director of Assessment and Training, and such consolidation shall be effective commencing with the calendar year following the year of the request.

(b) *Discontinuance of a consolidated employer record.* Two or more employers that have established and maintained a consolidated employer record will be permitted to discontinue such consolidated record only if the individual employers agree to an allocation of the consolidated employer record and such allocation is approved by the Director of Assessment and Training. The discontinuance of the consolidated record shall be effective commencing with the calendar year following the year of the Director of Assessment and Training's approval.

■ 3. Section 345.203 of subpart C is revised to read as follows:

#### § 345.203 Merger or combination of employers.

In the event of a merger or combination of two or more employers, or an employer and non-employer, the individual employer record of the employer surviving the merger (or any person that becomes an employer as the result of the merger or combination) shall consist of the combination of the individual employer records of the entities participating in the merger. Where the person surviving the merger is an existing employer under part 202 of this chapter, the individual employer record for the surviving employer will not be updated to reflect the combined record until the calendar year following the year of the Board's determination. Where the entity surviving the merger becomes an employer under part 202 of this chapter by virtue of the merger, the individual employer record shall consist of the combined record effective with its employer effective date.

■ 4. Section 345.204(a) of subpart C is revised to read as follows:

#### § 345.204 Sale or transfer of assets.

(a) In the event property of an employer is sold or transferred to another employer (or to a person that becomes an employer as the result of the sale or transfer) or is partitioned among two or more employers or persons, the individual employer record of such employer shall be prorated among the employer or employers that receive the property (including any person that becomes an employer by reason of such transaction or partition), in accordance with any agreement among the

respective parties (including an agreement that there shall be no proration of the employer record). Such agreement shall be subject to the approval of the Board. Where the employer acquiring the assets is an existing employer under part 202 of this chapter, that employer's individual employer record will take into consideration the acquired assets no earlier than the calendar year following the year of the Board's determination, unless an agreement among the respective parties provides otherwise. Where the employer acquiring the assets becomes an employer under part 202 of this chapter by virtue of such acquisition, the individual employer record for such employer shall consider the acquired assets as of such person's employer effective date, subject to any agreement between the respective parties and the provisions of paragraph (b) of this section.

\* \* \* \* \*

Dated: July 15, 2005.

By authority of the Board.

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. 05-14228 Filed 7-22-05; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Jacksonville 05-092]

RIN 1625-AA00

#### Safety Zone; Sisters Creek, Jacksonville, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone around a fireworks launch site while it launches fireworks. The safety zone includes all waters within 500 yards in any direction of the fireworks launch site located at Sisters Creek Marina, Jacksonville, Florida. The rule prohibits entry into the safety zone without the permission of the Captain of the Port (COTP) Jacksonville or his designated representative. The rule is needed to protect participants, vendors, and spectators from the hazards associated with the launching of fireworks.

**DATES:** This rule is effective from 9 p.m. on July 23, 2005, until 10 p.m. on July 23, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP Jacksonville 05-092] and are available for inspection or copying at Coast Guard Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, Florida, 32211, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Jamie Bigbie at Coast Guard Marine Safety Office Jacksonville, FL, telephone: (904) 232-2640, ext. 105.

**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 a NPRM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued and delay the rule's effective date, is contrary to public interest because immediate action is necessary to protect the public and waters of the United States from the dangers associated with the launching of fireworks.

For the same reasons, 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**. The Coast Guard will issue a broadcast notice to mariners and will place Coast Guard vessels in the vicinity of this zone to advise mariners of the restriction.

**Background and Purpose**

This rule is needed to protect persons and spectator craft in the vicinity of the fireworks presentation from the hazards associated with the storage, preparation and launching of fireworks. Anchoring, mooring, or transiting within this zone is prohibited, unless authorized by the Captain of the Port, Jacksonville, FL or his designated representative.

**Discussion of Rule**

The temporary safety zone encompasses all waters within 500 yards in any direction around the fireworks launch site during the storage, preparation and launching of fireworks. During the fireworks show, the launch site will be located at Sisters Creek Marina.

**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 the order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS) because these regulations will only be in effect for a short period of time and the impact on navigation is expected to be minimal.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact upon a substantial number of small entities because the regulations will only be in effect for a short period of time and the impact on routine navigation is expected to be minimal.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

This rule will not 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 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 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 would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation because this is a safety zone. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under ADDRESSES.

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

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

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

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

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

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(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. A new temporary § 165.T07-092 is added to read as follows:

#### § 165.T07-092 Safety Zone, Sisters Creek, Jacksonville, FL.

(a) *Regulated area.* The Coast Guard is establishing a temporary safety zone around a firework launch site at Sisters Creek Marina, Jacksonville, Florida located at 30°23.87' N, 081°27.46' W. The regulated area includes all waters within 500 yards in any direction from the fireworks launch site located at Sisters Creek Marina.

(b) *Definitions.* The following definitions apply to this section:

*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP), Jacksonville, Florida, in the enforcement of the regulated navigation areas and security zones.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in the Regulated Area is prohibited unless authorized by the Coast Guard Captain of the Port Jacksonville, FL or his designated representative.

(d) *Dates.* This rule is effective from 9 p.m. on July 23, 2005, until 10 p.m. on July 23, 2005.

Dated: July 13, 2005.

**David L. Lersch,**

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

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### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD13-05-028]

RIN 1625-AA00

#### Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project

AGENCY: Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone during preconstruction for the Tacoma Narrows Bridge construction project. The Coast Guard is taking this action to safeguard the public from hazards associated with the transport and construction of the cable wires and cable bands being used to construct the catwalk for the new bridge. Entry into this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

**DATES:** This rule is effective daily 5 a.m. to 9 p.m., Pacific Daylight Time, from July 19 to July 30, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD13-05-028 and are available for inspection or copying at the Waterways Management Division, Coast Guard Sector Seattle, 1519 Alaskan Way South, Seattle, WA, 98134, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Jessica Hagen, Waterways Management Division, Coast Guard Sector Seattle, at (206) 217-6958.

#### SUPPLEMENTARY INFORMATION:

#### Background and Purpose

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) has not been published for this regulation and good cause exists for making it effective without publication of an NPRM in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and persons that transit in the vicinity of the Tacoma Narrows Bridge. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event.

#### Discussion of Rule

The Coast Guard is adopting a temporary safety zone regulation on the waters of Tacoma Narrows, Washington, for the Tacoma Narrows Bridge construction project. The Coast Guard has determined it is necessary to limit access to 250 yards on either side of a line from the approximate position of 47°16'23" N, 122°33'25" W, the Gig Harbor shoreline in the vicinity of Point Evans, to 47°16'15" N, 122°33'15" W in order to safeguard people and property from hazards associated with this project. These safety hazards include, but are not limited to, hazards to navigation, collisions with the cables,