

■ 3. Table Five of § 706.2 is amended by revising the entry for USS WINSTON S. CHURCHILL as follows:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward mast-head light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS WINSTON S. CHURCHILL .....	DDG 81	X	X	X	14.0
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Approved: July 6, 2005.  
**Gregg A. Cervi**,  
*Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).*  
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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[CGD11-05-022]

RIN 1625-AA08

**Special Local Regulations for Marine Event; Labor Day Fireworks Display, South Lake Tahoe, CA**

**AGENCY:** Coast Guard, DHS.  
**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing special local regulations in the navigable waters of Lake Tahoe for the loading, transport, and launching of fireworks used during a fireworks display to be held in celebration of Labor Day on September 4, 2005. These special local regulations are intended to prohibit vessels and people from entering into or remaining within the regulated area and to ensure the safety of participants and spectators.

**DATES:** This rule is effective from 10 a.m. on September 3, 2005 to 10 p.m. on September 4, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of the docket CGD 11-05-022 and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Ian Callander, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437-3401.

**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. Logistical details surrounding the event were not finalized and presented to the Coast Guard in time to draft and publish an NPRM. As such, the event would occur before the rulemaking process was complete. Because of the dangers posed by the pyrotechnics used in this fireworks display, special local regulations are necessary to provide for the safety of event participants, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

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 the effective date of this rule would expose mariners to the dangers posed by the pyrotechnics used in this fireworks display.

**Background and Purpose**

The Tahoe-Douglas Visitors Authority is sponsoring a brief fireworks display on September 4, 2005 in the waters of South Lake Tahoe, CA. The fireworks display is meant for entertainment purposes in celebration of Labor Day. These special local regulations are being issued to establish a temporary regulated area in South Lake Tahoe around the three fireworks launch barges during loading of the pyrotechnics, during the transit of the

barges to the display location, and during the fireworks display. This regulated area around the launch barges is necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics on the fireworks barges. The Coast Guard has granted the event sponsor a marine event permit for the fireworks display.

**Discussion of Rule**

The Coast Guard is establishing temporary special local regulations on specified waters of South Lake Tahoe, CA. During the loading of the fireworks barges, while the barges are being towed to the display location, and until the start of the fireworks display, the special local regulations apply to the navigable waters around and under the fireworks barges within a radius of 100 feet. During the 20-minute fireworks display, the area to which these special local regulations apply will increase in size to encompass the navigable waters around and under the fireworks barges within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barges is scheduled to commence at 10 a.m. on September 3, 2005, and will take place at the Tahoe Keys Marina in South Lake Tahoe, CA. Towing of the barges from the Tahoe Keys Marina, to the display location, is scheduled to take place between 12 p.m. and 7 p.m. on September 4, 2005. During the fireworks display, scheduled to commence at 9:15 p.m. on September 4, 2005, the fireworks barges will be located approximately 1,500 feet off the South Lake Tahoe waterfront near the California/Nevada border, in position 38°57'54" N, 119°57'18" W.

The effect of the temporary special local regulations will be to restrict general navigation in the vicinity of the fireworks barges while the fireworks are loaded at the Tahoe Keys Marina,

during the transit of the fireworks barges, and until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to keep spectators and vessels a safe distance away from the fireworks barges and to ensure the safety of participants, spectators, and transiting vessels.

Pursuant to 33 U.S.C. 1236, persons violating these special local regulations may be liable as follows: suspension or revocation of the license of a licensed officer for incompetence or misconduct; civil penalty of \$6,500 for any person in charge of the navigation of a vessel other than a licensed officer; civil penalty of \$6,500 for the owner of a vessel (including any corporate officer of a corporation owning the vessel) who is actually on board; and \$2,750 for any other person.

### 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).

Although this regulation prevents traffic from transiting a portion of Lake Tahoe during the event, the effect of this regulation will not be significant due to the small size and limited duration of the regulated area. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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 may affect owners and operators of pleasure craft engaged in recreational activities and sightseeing. This rule will not have a significant

economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the area, (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of Lake Tahoe to engage in these activities, (iii) this rule will encompass only a small portion of the waterway for a limited period of time, and (iv) the maritime public will be advised in advance of these special local regulations via broadcast notice to mariners, and/or a local notice to mariners.

### 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 could 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, options for compliance, or assistance in understanding this rule, please contact Lieutenant Ian Callander, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3401.

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 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 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)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under those sections.

Under figure 2–1, paragraph (34)(h), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

## List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 100.35–T11–037 to read as follows:

### § 100.35–T11–037 Labor Day Fireworks Display, South Lake Tahoe, CA.

(a) *Regulated Area.* A regulated area is established for the waters of South Lake Tahoe surrounding three barges used as launch platforms for a fireworks display. During the loading of the fireworks barges, during the transit of the fireworks barges to the display location, and until the start of the fireworks display, the regulated area encompasses the navigable waters around and under each of the fireworks barges within a radius of 100 feet. During the 20-minute fireworks display, the regulated area increases in size to encompass the navigable waters around and under each fireworks launch barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barges is scheduled to commence at 10 a.m. on September 3, 2005, and will take place at the Tahoe Keys Marina in South Lake Tahoe, CA. Towing of the barges from the Tahoe Keys Marina to the display location is scheduled to take place between 12 p.m. and 7 p.m. on September 4, 2005. During the fireworks display, scheduled to commence at approximately 9:15 p.m. on September 4, 2005, the barges will be located approximately 1,500 feet off the South Lake Tahoe waterfront near the California/Nevada border in position 38°57'54" N, 119°57'18" W.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Sector San Francisco Bay.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector San Francisco Bay with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by an Official Patrol.

(d) *Enforcement Period.* This section will be enforced from 10 a.m. on September 3, 2005 to 10 p.m. on September 4, 2005. If the event concludes prior to the scheduled termination time, the Coast Guard will cease enforcement of the special local regulations and will announce that fact via Broadcast Notice to Mariners.

Dated: August 23, 2005.

K.J. Eldridge,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

[CGD05–05–005]

RIN 1625–AA08

### Special Local Regulations for Marine Events; Pasquotank River, Elizabeth City, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary special local regulations for the “Elizabeth City Jaycee Offshore Grand Prix”, a power boat race to be held on the waters of the Pasquotank River adjacent to Elizabeth City, NC. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Pasquotank River during the power boat race.

**DATES:** This rule is effective from 7:30 a.m. on September 23, 2005 to 6:30 p.m. on September 25, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CGD05–05–005 and are available for inspection or copying at Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Dennis Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398–6204.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On June 28, 2005, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Pasquotank River, Elizabeth City, NC in the **Federal Register** (70 FR 37066). No letters were received commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30