

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 M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental

documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Public Law 102–587, 106 Stat. 5039.

■ 2. From 7 a.m. July 13, 2006, to 11 p.m. on December 31, 2006, add temporary § 117.T1012 to read as follows:

#### § 117.T1012 James River.

From 7 a.m. July 13, 2006, until 11 p.m. on December 31, 2006, the draw of the James River Bridge, mile 5.0, between Isle of Wight and Newport News, shall open on signal if at least two hours notice is given to the bridge tender at (757) 247–2133 or via marine radio on channel 13 VHF.

Dated: June 29, 2006.

**L.L. Hereth,**

*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. E6–10979 Filed 7–12–06; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Diego 06–051]

RIN 1625–AA00

#### Safety Zone; North San Diego Bay, San Diego, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of San Diego Bay in support of a fireworks display series near the maritime navigational channel in the vicinity of the North Embarcadero. The safety zone is necessary to provide for the safety of the

crew, spectators, participants of the event, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from 9 p.m. (local) through 10 p.m. (local) on the following dates: June 30, July 1, July 2, July 7, July 8, July 14, July 15, July 21, July 22, July 28, July 29, August 4, August 5, August 11, August 12, August 18, August 19, August 20, August 25, August 26, August 31, September 1, September 2, and September 3, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket COTP San Diego 06–051 and are available for inspection or copying at Coast Guard Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101–1028, between 8 a.m. (PST) and 3 p.m. (PST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Petty Officer Eric Carroll, USCG, c/o U.S. Coast Guard Captain of the Port, (619) 278–7277.

### 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 fireworks show were not finalized nor 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.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** for the safety zones established on the following dates: June 30, July 1, July 2, July 7, July 8, July 14, July 15, July 21, and July 22, 2006. The issuance of final approval and permitting was so recent that the rule would be made effective less than 30 days after publication. In addition, it would be contrary to the public interest not to publish this rule because the event has been permitted and participants and the public require protection from the inherent dangers present to fireworks displays. This rule will be published 30 days prior to all other safety zones established by this rule.

#### Background and Purpose

The Coast Guard is establishing a temporary safety zone on a portion of

navigable waters of San Diego Bay in support of a fireworks show near the maritime navigational channel in San Diego Bay located off of the North Embarcadero. The safety zone is will consist of a 150-yard radius around the anchored firing barge. This temporary safety zone is necessary to provide for the safety of the show's crew, spectators, participants of the event, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

#### Discussion of Rule

The event involves one anchored barge, which will be used as a platform for launching fireworks. The safety zone is required because the barge's planned firing location is near the navigation channel. This safety zone will be enforced from 9 p.m. (local) through 10 p.m. (local) on the following dates: June 30, July 1, July 2, July 7, July 8, July 14, July 15, July 21, July 22, July 28, July 29, August 4, August 5, August 11, August 12, August 18, August 19, August 20, August 25, August 26, August 31, September 1, September 2, and September 3, 2006.

The limits of this temporary safety zone include all areas within a 150 yard radius of the firing location at approximately 32°42'309" N, 117°10'173" W (approximately 450 ft southwest of the North Embarcadero).

This temporary safety zone is necessary to provide for the safety of the crews, spectators, participants of the event, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

U.S. Coast Guard personnel will enforce this safety zone. Other Federal, State, or local agencies may assist the Coast Guard, including the Coast Guard Auxiliary. Section 165.23 of Title 33, Code of Federal Regulations, prohibits any unauthorized person or vessel from entering or remaining in a safety zone. Vessels or persons violating this section will be subject to both criminal and civil penalties.

#### 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.

Although the safety zone will restrict boating traffic within the navigable waters of San Diego Bay, the effect of this regulation will not be significant as the safety zone will encompass only a small portion of the waterway and will be short in duration. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing. As such, the Coast Guard expects the economic impact of this rule to be minimal.

#### 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 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 North San Diego Bay from 9 p.m. (PST) to 10 p.m. (PST) on the following dates: June 30, July 1, July 2, July 7, July 8, July 14, July 15, July 21, July 22, July 28, July 29, August 4, August 5, August 11, August 12, August 18, August 19, August 20, August 25, August 26, August 31, September 1, September 2, and September 3, 2006. Although the safety zone will restrict boating traffic within a portion of the navigable waters of San Diego Bay, the Coast Guard expects the economic impact of this rule to be minimal. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zone only encompasses a small portion of the waterway, it is short in duration at a late hour when commercial traffic is low, vessel traffic can pass safely around the safety zone, and the Captain of the Port or his designated representative may authorize entry into the zone, if necessary. Before the effective period, we will issue maritime advisories widely available to users of this area.

#### 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 your small business or organization is affected by this rule or you have questions concerning its provisions or options for compliance, please contact Chief Petty Officer Eric Carroll, U.S. Coast Guard Sector San Diego at (619) 278–7277.

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 affect 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 and Department of Homeland Security Management Directive 5100.1, which guide 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 it establishes a safety zone.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be 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. 1225, 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; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–105 to read as follows:

#### § 165.T11–105 Safety Zone: North San Diego Bay, CA.

(a) *Location.* The safety zone is comprised of a 150-yard radius around the anchored barge. The anchoring location is at the approximate position 32°42'309" N, 117°10'173" W (approximately 450 ft southwest of the North Embarcadero.)

(b) *Effective Period.* This safety zone will be in effect from 9 p.m. (local) through 10 p.m. (local) on the following dates: June 30, July 1, July 2, July 7, July 8, July 14, July 15, July 21, July 22, July 28, July 29, August 4, August 5, August 11, August 12, August 18, August 19, August 20, August 25, August 26, August 31, September 1, September 2, and September 3, 2006. The events are

scheduled to conclude no later than 10 p.m. (local). However, if displays conclude prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the U.S. Coast Guard Patrol Commander. The U.S. Coast Guard Patrol Commander may be contacted via VHF–FM Channel 16.

(d) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Patrol personnel can be comprised of commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. The Coast Guard may be assisted by other Federal, state, or local agencies.

Dated: June 26, 2006.

**C.V. Strangfeld,**

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

[FR Doc. E6–10999 Filed 7–12–06; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco 06–021]

RIN 1625–AA00

#### Safety Zone; BART Transbay Tube Seismic Upgrade; San Francisco, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a moving temporary safety zone in the navigable waters of San Francisco Bay, California during vibro penetration testing for a seismic upgrade of the Bay Area Rapid Transit (BART) Transbay tube. The testing will require placement of a barge at test sites along