

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. 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 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 § 165–T11–199 to read as follows:

#### § 165–T11–199 Safety Zone; Peninsula Celebration Association Annual Fireworks Spectacular, San Francisco Bay, CA.

(a) *Location.* A safety zone is established for the waters of San Francisco Bay surrounding a barge used as the launch platform for a fireworks display. During the loading of the fireworks barge, during the transit of the fireworks barge to the display location, and until fifteen minutes prior to the start of the fireworks display, the restricted area encompasses the navigable waters around and under the fireworks barge within a radius of 100 feet. During the fifteen minutes preceding the fireworks display and during the fifteen minute fireworks display itself, the safety zone increases in size to encompass the navigable waters around and under the fireworks launch barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 9 a.m. on July 4, 2007, and will take place at Pier 50 in San Francisco. Towing of the barge from Pier 50 to the display location is scheduled to take place between 12 p.m. and 8 p.m. on July 4, 2007. During the fireworks display, scheduled to start at approximately 9:30 p.m. on July 4, 2007, the barge will be located approximately

600 feet off Wharf #5 in the Port of Redwood City in approximate position 37°30.35' N, 122°12.85' W.

(b) *Effective Period.* This section will be enforced from 9 a.m. to 10 p.m. on July 4, 2007. If the event concludes prior to the scheduled termination time, the Coast Guard will cease enforcement of the 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 safety zone by all vessels and persons is prohibited, unless specifically authorized by the Captain of the Port San Francisco, or his designated representative.

(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 U.S. Coast Guard may be assisted in the patrol and enforcement of this safety zone by local law enforcement as necessary.

Dated: June 11, 2007.

W.J. Uberti,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD05–07–010]

RIN 1625–AA00

#### Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a permanent safety zone upon certain waters of the Patapsco River, Northwest Harbor, and Inner Harbor during the movement of the historic sloop-of-war USS CONSTELLATION, annually, on the Friday following Labor Day. This action is necessary to provide for the safety of

life on navigable waters during the tow of the vessel from its berth at the Inner Harbor in Baltimore, Maryland, to a point on the Patapsco River near the Fort McHenry National Monument and Historic Shrine in Baltimore, Maryland, and return. This action will restrict vessel traffic in portions of the Patapsco River, Northwest Harbor, and Inner Harbor during the event.

**DATES:** This rule is effective July 25, 2007.

**ADDRESSES:** 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 CGD05-07-010 and are available for inspection or copying at Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland, 21226-1791 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576-2674 or (410) 576-2693.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On April 9, 2007, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD" in the **Federal Register** (72 FR 17458). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

Each year, the USS CONSTELLATION Museum conducts a "turn-around" ceremony involving the sloop-of-war USS CONSTELLATION in Baltimore, Maryland on the Friday following Labor Day. The annual turning of the USS CONSTELLATION aids in the maintenance of the historic ship by ensuring even weathering of her hull. Planned events include a three-hour, round-trip tow of the CONSTELLATION in the Port of Baltimore, with an onboard salute with navy pattern cannon while the historic vessel is positioned off Fort McHenry National Monument and Historic Site. The historic sloop-of-war USS CONSTELLATION will be towed "dead ship," which means that the vessel will be underway without the benefit of mechanical or sail propulsion. The return dead ship tow of the CONSTELLATION to its berth in the Inner Harbor is expected to occur

immediately upon execution of a tug-assisted turn-around of the CONSTELLATION on the Patapsco River near Fort McHenry. The Coast Guard anticipates a large recreational boating fleet during this event, scheduled on a late Friday afternoon during the summer in Baltimore, Maryland. Operators should expect significant vessel congestion along the planned route.

The purpose of this rule is to promote maritime safety and protect participants and the boating public in the Port of Baltimore immediately prior to, during, and after the scheduled event. The rule will provide for a clear transit route for the participating vessels, and provide a safety buffer around the participating vessels while they are in transit. The rule will impact the movement of all vessels operating upon certain waters of the Patapsco River, Northwest Harbor and Inner Harbor.

**Discussion of Comments and Changes**

The Coast Guard received no comments on the proposed rule during the comment period published in the NPRM. No public meeting was requested and none was held. As a result, no change to the proposed regulatory text was made.

**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. This safety zone is a moving zone that will encompass only a small portion of the waterway. Vessels or persons may be able to transit safely around this zone.

**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 would affect the following entities, some of which might be small entities: The owners or operators of

vessels intending to operate, remain or anchor within certain waters of the Patapsco River, Northwest Harbor and Inner Harbor, in Baltimore, Maryland, from 2 p.m. through 7 p.m. local time, annually, on the Friday following Labor Day. Because the zone is of limited size and duration, it is expected that there will be minimal disruption to the maritime community. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the river and harbors to allow mariners to make alternative plans for transiting the affected areas. In addition, smaller vessels not constrained by their draft, which are more likely to be small entities, may transit around the safety zone.

**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. We received no requests for assistance from any small entities.

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). 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 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 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. That paragraph applies because this rule establishes 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, 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 § 165.512 to read as follows:

#### § 165.512 Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD.

(a) *Definitions.* For the purposes of this section:

(1) *Captain of the Port, Baltimore, Maryland* means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his or her behalf.

(2) *USS CONSTELLATION “turn-around” participants* means the USS CONSTELLATION, its support craft and the accompanying towing vessels.

(b) *Location.* The following area is a moving safety zone: All waters, from surface to bottom, within 200 yards ahead of or 100 yards outboard or aft of the historic sloop-of-war USS CONSTELLATION, while operating in the Inner Harbor, the Northwest Harbor and the Patapsco River.

(c) *Regulations.* (1) The general regulations governing safety zones, found in § 165.23, apply to the safety zone described in paragraph (b) of this section.

(2) With the exception of USS CONSTELLATION “turn-around” participants, entry into or remaining in this zone is prohibited, unless authorized by the Captain of the Port, Baltimore, Maryland.

(3) Persons or vessels requiring entry into or passage through the moving safety zone must first request authorization from the Captain of the Port, Baltimore, Maryland to seek permission to transit the area. The Captain of the Port, Baltimore, Maryland can be contacted at telephone number (410) 576–2693. The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF Channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the person or vessel shall proceed as directed. If permission is granted, all persons or vessels must comply with the instructions of the Captain of the Port, Baltimore, Maryland, and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State and local agencies.

(e) *Enforcement period.* This section will be enforced from 2 p.m. through 7 p.m. local time, annually, on the Friday following Labor Day.

Dated: June 14, 2007.

**Brian D. Kelley,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 07-023]

RIN 1625-AA00

#### Safety Zones; Lake Tahoe Fireworks, Lake Tahoe, CA.

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety zones in the navigable waters of Lake Tahoe for the loading, transport, and launching of fireworks to celebrate Independence Day. These safety zones are established to ensure the safety of participants and spectators. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zones without permission of the Captain of the Port or his designated representative.

**DATES:** This rule is effective from 8 a.m. on July 2, 2007 to 10 p.m. on July 5, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of the docket COTP San Francisco Bay 07-023 and are available for inspection or copying at Coast Guard Sector San Francisco, 1 Yerba Buena Island, San Francisco, California, 94130, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 556-2950 ext. 136.

#### 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, safety zones 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.

For the same reasons listed in the previous paragraph, 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

North Tahoe Business Association is sponsoring a fireworks display on July 3, 2007; Tahoe City Rotary is sponsoring a fireworks display on July 4, 2007; and Westshore Café is sponsoring a fireworks display on July 5, 2007 in the waters of Lake Tahoe. The fireworks displays are meant for entertainment purposes in celebration of Independence Day. These safety zones are being issued to establish a temporary regulated area in Lake Tahoe around the fireworks launch barge during loading of the pyrotechnics, during the transit of the barge to the display location, and during the fireworks display. These safety zones around the launch barge are necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics on the fireworks barge. The Coast Guard has granted the event sponsor marine event permits for the fireworks displays.

##### Discussion of Rule

The Coast Guard is establishing temporary safety zones on specified waters of Lake Tahoe. 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 safety zones will apply to the navigable waters around and under the fireworks barges within a radius of 100 feet. Fifteen minutes prior to and during the fireworks displays, the area to which these safety zones applies to 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 first pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on July 2, 2007, and will take place at Obexer's Boat Company, Homewood, California. Towing of the barge from Obexer's Boat Company to the display location is scheduled to take place between 9 a.m.

and 11 a.m. on July 3, 2007. During the fireworks display, scheduled to commence at approximately 9:30 p.m. on July 3, 2007, the fireworks barge will be located approximately 600-700 feet off of the shore line of King's Beach in position 39°14'00" N, 120°01'50" W.

Loading of the second pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on July 4, 2007, and will take place at Obexer's Boat Company, Homewood, California. Towing of the barge from Obexer's Boat Company to the display location is scheduled to take place between 9 a.m. and 2 p.m. on July 4, 2007. During the fireworks display, scheduled to commence at approximately 9:30 p.m. on July 4, 2007, the fireworks barge will be located approximately 600-700 feet off of the shore line of Tahoe City in position 39°10'00" N, 120°08'00" W.

Loading of the third pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on July 5, 2007, and will take place at Obexer's Boat Company, Homewood, California. Towing of the barge from Obexer's Boat Company to the display location is scheduled to take place between 9 a.m. and 2 p.m. on July 5, 2007. During the fireworks display, scheduled to commence at approximately 9:30 p.m. on July 5, 2007, the fireworks barge will be located approximately 600-700 feet off of the shore line of Homewood near Westshore Café in McKinney Bay in position 39°05'00" N, 120°09'00" W.

The effect of the temporary safety zones will be to restrict general navigation in the vicinity of the fireworks barges while the fireworks are loaded, during the transit of the fireworks barge, 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 safety zones. These safety zones are needed to keep spectators and vessels a safe distance away from the fireworks barge to ensure the safety of participants, spectators, and transiting vessels.

##### 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 this rule restricts access to the waters encompassed by the safety zones, the effect of this rule will not be significant because the local waterway