

records when the purposes underlying the exemption are valid and necessary to protect the contents of the records.

This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

**DATES:** The rule will be effective on July 5, 2011 unless comments are received that would result in a contrary determination. Comments will be accepted on or before June 24, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jody Sinkler at (703) 767-5045.

**SUPPLEMENTARY INFORMATION:**

**Direct Final Rule and Significant Adverse Comments**

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with DoD's management of its Privacy Programs. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the Federal Register. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

**Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"**

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (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 these Executive orders.

**Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)**

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

**Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been determined that Privacy Act rules for the Department of Defense impose no additional information collection requirements on the public under the Paperwork Reduction Act of 1995.

**Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"**

It has been determined that Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

**Executive Order 13132, "Federalism"**

It has been determined that Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not 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.

**List of Subjects in 32 CFR Part 323**

Privacy.

Accordingly, 32 CFR part 323 is amended as follows:

**PART 323—DEFENSE LOGISTICS AGENCY PRIVACY PROGRAM**

■ 1. The authority citation for 32 CFR part 323 continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. In Appendix H to part 323, add paragraph (g) to read as follows:

**Appendix H to Part 323—DLA Exemption Rules**

\* \* \* \* \*

g. ID: S510.30

1. *System name:* Freedom of Information Act/Privacy Act Requests and Administrative Appeal Records.

2. *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those "other" systems of records are entered into this system, the Defense Logistics Agency claims the same exemptions for the records from those "other" systems that are entered into this system, as claimed for the original primary system of which they are a part.

3. *Authority:* 5 U.S.C. 552a(j)(2), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

4. *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

Dated: April 8, 2011.

**Patricia L. Toppings,**  
*OSD Federal Register Liaison Officer,*  
*Department of Defense.*

[FR Doc. 2011-9748 Filed 4-22-11; 8:45 am]

**BILLING CODE 5001-06-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2011-0196]

RIN 1625-AA00

**Safety Zone; Bay Ferry II Maritime Security Exercise; San Francisco Bay, San Francisco, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of the San Francisco Bay in support of the Bay Ferry II Maritime Security Exercise, a multi-agency exercise that tests the proficiency of teams called upon in real

life emergency situations onboard ferries or other vessels in the San Francisco Bay. The temporary safety zone is necessary to provide for the safety of the public and those participating in the exercise, many of whom will be traveling at high speeds while interfacing with law enforcement responders. Persons and vessels are prohibited from entering into, transiting through, or anchoring within the temporary safety zone unless authorized by the Captain of the Port or the Captain of the Port's designated representative.

**DATES:** This rule is effective from 5:50 a.m. until 12:10 p.m. on April 28, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0196 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2011-0196 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Lieutenant Junior Grade Allison A. Natcher, Waterways Management, U.S. Coast Guard Sector San Francisco, Coast Guard; telephone 415-399-7442, e-mail [D11-PF-MarineEvents@uscg.mil](mailto:D11-PF-MarineEvents@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it was impracticable since the logistical details of the operations were not presented to

the Coast Guard in enough time to draft and publish an NPRM.

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 the public to the dangers posed when conducting a live practical exercise with a multi-agency underway response by United States Coast Guard, regional law enforcement, including SWAT and special tactics units, and fire department marine units.

##### **Background and Purpose**

The California Maritime Academy has requested that the Coast Guard enforce a temporary safety zone for operations during the Bay Ferry II Maritime Security Exercise from 5:50 a.m. until 12:10 p.m. on April 28, 2011. The Bay Ferry II Maritime Security Exercise is a multi-agency exercise that tests the proficiency of teams called upon in real life emergency situations onboard ferries or other vessels in the San Francisco Bay. The temporary safety zone will encompass General Anchorage 5 between the North and South Shipping Channels to the west and Southampton Shoal Channel to the east in San Francisco Bay. The temporary safety zone is needed to protect exercise participants and provide for the safety of the passenger ferry operators, first responders, their crews, and the public during the full scale security exercise from accidents or other causes of a similar nature.

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

The Coast Guard is establishing a temporary safety zone that will be enforced on April 28, 2011 from 5:50 a.m. until 12:10 p.m. The limits of the safety zone include the navigable waters of General Anchorage 5 between the North and South Shipping Channels to the west and Southampton Shoals Channel to the east in San Francisco Bay. The safety zone will be located at approximately 37°54' N and 122°26'10" W; 37°54' N and 122°25'30" W; 37°56'30" N and 122°26'30" W; and 37°56'30" N and 122°25'50" W (NAD 83).

The temporary safety zone is necessary to protect the public from exercise participants and provide for the safety of the United States Coast Guard, passenger ferry operators, first responders, and their crews during the full scale security exercise from accidents or other causes of a similar nature. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within the

temporary safety zone unless authorized by the Captain of the Port, or the Captain of the Port's designated representative.

The temporary safety zone will be enforced by Coast Guard patrol craft and San Francisco Harbor Police as authorized by the Captain of the Port. See 33 CFR 6.04-11, Assistance of Other Agencies.

##### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### **Regulatory Planning and Review**

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 regulation will restrict access to the area, the effect of this rule will not be significant because: (1) The safety zone will be in effect for a limited period of time; (2) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (3) the size of the zone is at the minimum necessary to provide adequate protection for the United States Coast Guard, passenger ferry operators, first responders, their crews, and the public.

##### **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 will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in General Anchorage 5 in the San Francisco Bay between 5:50 a.m. and 12:10 p.m. on April 28, 2011.

The temporary safety zone will not have a significant economic impact on

a substantial number of small entities for the following reasons. Vessel traffic can pass safely around the zone. Before the effective period, the Coast Guard will issue local notice to mariners (LNM) and broadcast notice to mariners (BNM) alerts via VHF-FM marine channel 16 before the safety zone is enforced.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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 Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a temporary safety zone.

An environmental analysis checklist and a 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, 3306, 3703; 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 § 165.T11-407 to read as follows:

#### § 165.T11-407 Safety Zone; Bay Ferry II Maritime Security Exercise; San Francisco Bay, San Francisco, CA.

(a) *Location.* The limits of this safety zone include the navigable waters within General Anchorage 5 at positions: 37°54' N and 122°26'10" W; 37°54' N and 122°25'30" W; 37°56'30" N and 122°26'30" W; and 37°56'30" N and 122°25'50" W (NAD 83).

(b) *Enforcement Period.* This section will be enforced from 5:50 a.m. through 12:10 p.m. on April 28, 2011. If the operation concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of the safety zones and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to these sections: *designated representative* means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and Federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) In accordance with 33 CFR Part 165 Subpart C, entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Francisco or the Captain of the Port's designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The PATCOM may be contacted on VHF-FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) 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.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: April 11, 2011.

**Cynthia L. Stowe,**

*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

[Docket No. USCG-2011-0201]

RIN 1625-AA00

#### Safety Zone; Sea World Fireworks; Mission Bay, San Diego, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on

the specified navigable waters of Mission Bay in support of the Sea World Fireworks. This safety zone is necessary to provide for the safety of the participants, crew, spectators, 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 in the CFR from April 25, 2011 through 10:15 p.m. on December 31, 2011. This rule is effective with actual notice for the purposes of enforcement from 8:45 p.m. on April 2, 2011 through 10:15 p.m. on December 31, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0201 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0201 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Petty Officer Cody McLaughlin, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278-7233, e-mail [Cody.C.McLaughlin@uscg.mil](mailto:Cody.C.McLaughlin@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because standard notice procedures are impracticable. Immediate action is necessary to ensure the safety of vessels, spectators, participants, and others in

the vicinity of the marine event on the dates and times this rule will be in effect.

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**. Delaying the effective date would be impracticable, because immediate action is needed to ensure the public's safety.

#### Basis and Purpose

Sea World is sponsoring the Sea World Fireworks, which will include a fireworks presentation from a barge in Mission Bay. Fireworks displays are scheduled to occur on various dates between April 2 and December 31, 2011. This temporary safety zone is necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway.

#### Discussion of Rule

The Coast Guard is establishing a temporary safety zone in support of Sea World Fireworks. It will be enforced from 8:45 p.m. to 10:15 p.m. on evenings with a fireworks show. Fireworks shows are currently scheduled for the following dates in 2011: April 2, 9, 16 and 23; May 28, 29 and 30; June 4 and 5, 11 and 12; June 16 through August 21; August 26, 27, and 28; September 3, 4, and 5; November 18; and December 9 and 31. If this schedule changes the Coast Guard will announce the changes via Broadcast Notice to Mariners no less than 24 hours before the event. The safety zone will cover a 600 foot radius surrounding the fireworks barge in approximate position 32°46'03" N, 117°13'11" W. The safety zone is necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway. When this temporary safety zone is being enforced, 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.

#### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not