

government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

#### *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 concern an environmental risk to health or safety that may disproportionately affect children.

#### *Environment*

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Figure 2-1, paragraph 34(h) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation.

#### **List of Subjects in 33 CFR Part 100**

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

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

#### **PART 100—[MARINE EVENTS]**

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

**Authority:** 33 U.S.C. 1233 through 1236, 49 CFR 1.46, and 33 CFR 100.35.

2. Add temporary § 100.35T-07-023 to read as follows:

#### **§ 100.35T-07-023 Charleston to Bermuda Race, Charleston Harbor, Charleston SC.**

(a) *Regulated Area:* An area in Charleston Harbor, Charleston, S. C. starting from: A line drawn from the point at Customhouse Reach in position 32-47.15N 079-55.18W, 0.18nm west to 32-47.15N 079-55.40W; then south 0.68 nm to the gate formed by Degaussing Range West Platform Light (light list number 2670) (32-46.47N 079-55.37W)

and Degaussing Range East Platform Light (light list number 2665) (32-46.50N 079-55.00W); then to the gate formed by Battery Point Lighted Buoy BP (light list number 2650) (32-45.61N 079-55.08W) and Cooper River Lighted Buoy 32 (light list number 2655) (32-46.47N 079-55.10W); then to that portion of South Channel to where it intersects Charleston Harbor Channel Mt. Pleasant Range; then southeasterly out Charleston Harbor Channel to the gate formed by Charleston Harbor Channel Lighted Buoy 13 (light list number 2415) (32-43.29N 079-48.73W) to Charleston Harbor Channel Lighted Buoy 14 (light list number 2420) (32-45.45N 079-48.63W).

All coordinates referenced use Datum: NAD 1983.

(b) *Coast Guard Patrol Commander:* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by Commanding Officer, Coast Guard Group Charleston SC.

(c) *Special Local Regulations:* Non-participant vessels are prohibited from entering the regulated area unless authorized by the Patrol Commander. Spectator craft may remain in the designated spectator area to be established by the event sponsor, The Charleston to Bermuda Race, Inc.

(d) *Dates:* This section becomes effective at 12:30 p.m. on May 19, 2001 and terminates at 4 p.m. May 19, 2001.

Dated: March 23, 2001.

**G.W. Sutton,**

*Captain U.S. Coast Guard Commander,  
Seventh Coast Guard District, Acting.*

[FR Doc. 01-9177 Filed 4-12-01; 8:45 am]

**BILLING CODE 4910-15-U**

#### **DEPARTMENT OF TRANSPORTATION**

##### **Coast Guard**

##### **33 CFR Part 165**

**[CGD01-01-015]**

**RIN 2115-AA97**

##### **Safety Zone: Queens Millennium Concert Fireworks, East River, NY**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Queens Millennium Concert Fireworks on the East River. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the East River.

**DATES:** This rule is effective from 9 p.m. (e.s.t.) until 10:30 p.m. (e.s.t.) on May 19, 2001.

**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 (CGD01-01-015) and are available for inspection or copying at room 204, Coast Guard Activities New York, Waterways Oversight Branch, 212 Coast Guard Drive, Staten Island, New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### **FOR FURTHER INFORMATION CONTACT:**

Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On March 2, 2001, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Queens Millennium Concert Fireworks, East River, NY in the **Federal Register** (66 FR 13032). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

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

The Coast Guard is establishing a temporary safety zone for the Queens Millennium Concert Fireworks on the East River. The safety zone encompasses all waters of the East River, within a 180-yard radius of the fireworks barge in approximate position 40°44'43.3" N 073°57'43.2" W, about 240 yards east of Belmont Island.

The safety zone is effective from 9 p.m. (e.s.t.) until 10:30 p.m. (e.s.t.) on May 19, 2001. The safety zone prevents vessels from transiting a portion of the East River. It is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit to the west of Belmont Island through the western 340 yards of the East River. Additionally, vessels will not be precluded from mooring at or getting underway from recreational or commercial piers in the vicinity of the zone. No vessel may enter the safety zone without permission from the Captain of the Port, New York.

This safety zone covers the minimum area needed and imposes the minimum restrictions necessary to ensure the protection of all vessels. Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts.

### Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rulemaking. No changes were made to this rulemaking.

### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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 Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This safety zone will temporarily close a portion of the East River to vessel traffic; however, the impact of this regulation is expected to be minimal for the following reasons: the limited duration of the event; that vessels are not precluded from getting underway, or mooring at, public or private facilities in the vicinity of the event; the advance advisories that will be made to the maritime community; and marine traffic may still transit to the west of the zone during the event.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 6 inch mortars fired from a barge, combined with the Coast Guard's knowledge of tide and current conditions in the area.

### Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the East River during the time this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the limited duration of the event; that vessels are not precluded from getting underway, or mooring at, public or private facilities in the vicinity of the event; the advance advisories that will be made to the maritime community; and marine traffic may still transit to the west of the zone during the event.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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.

### 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

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

### 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 concern 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. A rule with tribal implications has 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.

### Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A "Categorical Exclusion Determination" is 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add Temporary § 165.T01–015 to read as follows:

#### **§ 165.T01–015 Safety Zone: Queens Millennium Concert Fireworks, East River, NY.**

(a) *Location.* The following area is a safety zone: All waters of the East River within a 180-yard radius of the fireworks barge in approximate position 40°44'43.3" N 073°57'43.2" W (NAD 1983), about 240 yards east of Belmont Island.

(b) *Effective period.* This section is effective from 9 p.m. (e.s.t.) until 10:30 p.m. (e.s.t.) on May 19, 2001.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) No vessels will be allowed to transit the safety zone without the

permission of the Captain of the Port, New York.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 5, 2001.

**P.A. Harris,**

*Captain, U. S. Coast Guard Captain of the Port, New York, Acting.*

[FR Doc. 01-9178 Filed 4-12-01; 8:45 am]

**BILLING CODE 4910-15-U**

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 205

[Docket No. RM 2001-1]

#### Service of Notice of Institution of Action for Infringement and Service of Complaint in Infringement Action on the Register of Copyrights

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** This document publishes the procedures for proper service on the Register of Copyrights when a registration applicant whose application for registration has been refused institutes an infringement action. Service under such circumstances is required under title 17, United States Code, section 411(a).

**EFFECTIVE DATE:** Effective May 14, 2001.

**FOR FURTHER INFORMATION CONTACT:** Marilyn J. Kretsinger, Assistant General Counsel, or Patricia L. Sinn, Senior Attorney, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:** Under title 17, United States Code, the copyright law allows a copyright owner to sue for infringement of exclusive rights provided under 17 U.S.C. 106, as long as the work(s) at issue have been registered with the Copyright Office. In addition, under section 411(a), a registration applicant whose application for registration has been refused by the Office may institute an infringement action under certain circumstances. It states:

Except for an action brought for a violation of the rights of the author under section 106A(a), and subject to the provisions of subsection (b), no action for infringement of the copyright in any United States work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his or her option, become a party to the action with respect to the issue of registrability of the copyright claim by entering an appearance within sixty days after such service, but the Register's failure to become a party shall not deprive the court of jurisdiction to determine that case.

#### 17 U.S.C. 411(a).

The purpose of the statutory provision is to enable the Register to become a party to an action, if he or she chooses, with respect to the issue of registrability of the copyright claim, and, thereby explain the Office's rejection of an application or clarify the Office's registration practices and procedures. The Register has sixty days after service of complaint to intervene in the case. In order for this to occur, service must be proper and timely.

Unfortunately, the statute does not give specific instructions about service on the Register when registration has been refused, and in practice such service has not been uniform. Despite the Copyright Office's publication of an address where these complaints should be directed, See 59 FR 17401 (April 12, 1994), they continue to be misdirected. A number of them have been delivered to the wrong section of the Copyright Office and held for over 60 days before being forwarded to the appropriate Copyright Office official. Such delays make it impossible for the Office to enter the case. Therefore, the Office is publishing in its regulations the procedures whereby notice of institution of lawsuits and complaints in cases where registration has been refused must be served directly upon the appropriate officials responsible for determining Office participation in such cases. Service that does not comply with these procedures will not be considered proper.

Service on the Register of notice that an action has been instituted for infringement of a work for which registration has been refused will be satisfied by either sending by first class mail notice of the institution of the action in the form of a cover letter addressed to the Register of Copyrights, along with a copy of the complaint to

the General Counsel of the Copyright Office at Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024 or by hand delivery of the same material to the General Counsel. If delivered by hand, the cover letter and complaint must be delivered to the Copyright Office General Counsel's Office at the James Madison Memorial Building, Room LM-403, First and Independence Avenue, SE, Washington, D.C. A copy of the cover letter and complaint should also be sent to the Department of Justice by first class mail, addressed to the Director of Intellectual Property Staff, Commercial Litigation Branch, Civil Division, Department of Justice, Washington, D.C. 20530.

This final rule is being published without opportunity for notice and comment because it is a rule of agency practice and procedure. Moreover, the Office finds that there is good cause to conclude that providing the opportunity for notice and comment would be impracticable, unnecessary and contrary to the public interest because this rule simply advises parties of the address to which the notice required by section 411(a) must be sent. See 5 U.S.C. 553(b)(A) and (B).

#### List of Subjects in 37 CFR Part 205

Copyright, Service of process.

#### Final Regulation

In consideration of the foregoing, the Copyright Office is amending 37 CFR Chapter II by adding part 205 consisting of subpart A to read as follows:

#### PART 205—PRODUCTION OF LEGAL DOCUMENTS AND OFFICIAL TESTIMONY

**Authority:** 17 U.S.C. 411, 17 U.S.C. 702.

##### § 205.1 Complaints served on the Register of Copyright pursuant to 17 U.S.C. 411(a)

When an action has been instituted pursuant to 17 U.S.C. 411(a) for infringement of the copyright of a work for which registration has been refused, notice of the institution of the action and a copy of the complaint must be served on the Register of Copyrights by delivering such documents by first class mail to the General Counsel of the Copyright Office, GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024, or delivery by hand to the General Counsel of the Copyright Office, James Madison Memorial Building, Room LM-403, First and Independence Avenue, SE, Washington, D.C. A second copy should be delivered by first class mail to the United States Department of Justice, directed to the Director of Intellectual Property Staff, Commercial