

Dated: August 3, 2010.

Craig A. Bennett,

Director, National Pollution Funds Center,
U.S. Coast Guard.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2010-0685]

RIN 1625-AA00

Safety Zones; Fireworks Within the Captain of the Port Sector Boston Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones within the Captain of the Port Sector Boston Zone for various fireworks events. These safety zones are necessary to provide for the safety of life on navigable waters during these fireworks events. Entering into, transiting through, mooring or anchoring within these zones is prohibited unless authorized by the Captain of the Port Sector Boston.

DATES: This rule is effective in the CFR on August 13, 2010 through 11:59 p.m. on September 4, 2010. This rule is effective with actual notice for purposes of enforcement beginning at 9:30 p.m. on July 24, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0685 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0685 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 MST1 David Labadie, Waterways Management Division, Coast Guard Sector Boston; telephone (617) 223-5768, e-mail

David.J.Labadie@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 the Coast Guard did not receive notification of the specific location or planned dates for the events in sufficient time to issue a NPRM without delaying this rulemaking. Delaying the effective date by first publishing a NPRM and holding a comment period would be contrary to the rule's objectives of ensuring safety of life on the navigable waters during these scheduled events as immediate action is needed to protect persons and vessels from the hazards associated with participation in these marine events.

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**. In addition to the reasons stated above, this rule is intended to ensure the safety of the event participants, spectators and other waterway users thus any delay in the rule's effective date would be impractical.

Basis and Purpose

This temporary rule is necessary to ensure the safety of vessels and spectators from hazards associated with fireworks events. The Captain of the Port Boston has determined that fireworks events in close proximity to watercraft and waterfront structures pose a significant risk to public safety and property. Such hazards include obstructions to the waterway that may cause marine casualties and the explosive danger of fireworks and debris falling into the water that may cause death or serious bodily harm. Establishing a safety zone around the location of these fireworks events will help ensure the safety of persons and property and help minimize the associated risks.

The Coast Guard has ordered safety zones for these past events and has not received public comments or concerns regarding the impact to waterway traffic from these annual events.

Discussion of Rule

These temporary safety zones are necessary to ensure the safety of participants, spectators, and vessels during the annual fireworks events in the Captain of the Port Boston area of responsibility that may pose a hazard to the public. The safety zones will be enforced immediately before, during, and after events.

The Captain of the Port will inform the public about the details of each fireworks event covered by these safety zones using a variety of means, including, but is not limited to, Broadcast Notices to Mariners and Local Notices to Mariners.

All persons and vessels shall comply with the instructions of the Captain of the Port Boston or designated on-scene patrol personnel. Entering into, transiting through, mooring or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port Boston or his designated on-scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16 or by telephone at (617) 223-5750.

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.

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: The safety zones will be of limited duration, they cover only a small portion of the navigable waterways, and the events are designed to avoid, to the extent possible, deep draft, fishing, and recreational boating traffic routes. In addition, vessels requiring entry into the area of the safety zones may be authorized to do so by the Captain of the Port.

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 might be small entities: The owners and operators of vessels intending on entering into, transiting through, mooring or anchoring within the safety zones during the enforcement periods stated for each event in the List of Subjects.

These safety zones will not have a significant economic impact on a substantial number of small entities because of the minimal amount of time in which the safety zones will be enforced. These safety zones will be enforced for approximately four (4) hours on a given day during the effective period.

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 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not cause 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 that 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 safety zones. Based on our preliminary determination, 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 (34)(g), of the Instruction, from further environmental documentation. 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 record keeping 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(g), 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.T01–0685 to read as follows:

§ 165.T01–0685 Safety Zones; Fireworks Within the Captain of the Port Sector Boston Zone.

(a) *General.* Temporary safety zones are established for fireworks events described in paragraphs (a)(1) through (a)(5):

(1) Surfside Fireworks, Salisbury Beach, MA

(i) All waters of the Atlantic Ocean near Salisbury Beach, MA from surface to bottom, within a 200-yard radius of the fireworks barge located at 42°50'36" N, 070°48'24" W.

(ii) *Enforcement Date.* This rule is effective from 9:30 p.m. on July 24, 2010 to 11:59 p.m. on September 4, 2010. This rule will be enforced every Saturday evening from 9:30 p.m. through 10:30 p.m. during the effective period.

(2) Yankee Homecoming Fireworks, Newburyport, MA

(i) All waters of the Merrimack River, from surface to bottom, within a 400-yard radius of the fireworks launch site located at position 42°48'58" N, 070°52'41" W.

(ii) *Enforcement Date.* This rule will be enforced from 9 p.m. to 10 p.m. on July 31, 2010.

(3) Beverly Homecoming Fireworks, Beverly, MA

(i) All waters of Beverly Harbor from surface to bottom, within a 200-yard radius of the fireworks barge located at position 42°32'37" N, 070°52'09" W.

(ii) *Enforcement Date.* This rule will be enforced from 9:00 p.m. to 11:00 p.m. on August 8, 2010.

(4) Town of Revere Fireworks, Revere, MA

(i) All waters of Broad Sound, from surface to bottom, within a 300-yard radius of the fireworks launch site located at Revere Beach at position 42°24'30" N, 070°59'26" W.

(ii) *Enforcement Date.* This rule will be enforced from 9:00 p.m. to 11 p.m. on August 14, 2010.

(5) Gloucester Schooner Festival Fireworks, Gloucester, MA

(i) All waters of Gloucester Harbor, from surface to bottom, within a 500-yard radius of the launch site on the beach at location of 42° 36'18" N, 070°40'32" W.

(ii) *Enforcement Date.* This rule will be enforced from 7:00 p.m. to 11 p.m. on September 4, 2010.

(b) *Regulations.*

(1) In accordance with the general regulations in Section 165.23 of this part, entering into, and transiting through, mooring or anchoring within these regulated areas is prohibited unless authorized by the Captain of the Port Boston, or his designated on-scene representative.

(2) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port Boston or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16 or by telephone at (617) 223–5750.

(3) The “on-scene representative” of the Captain of the Port Boston is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Boston to act on his behalf. The on-scene representative of the Captain of the Port Boston will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the Captain of the Port or his on-scene representative.

Dated: August 2, 2010.

John N. Healey,

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

[FR Doc. 2010–19977 Filed 8–12–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL–9189–1]

RIN 2050–AG58

Cooperative Agreements and Superfund State Contracts for Superfund Response Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends the regulation by allowing interim progress reports to be due in 60 days, instead of the current 30-day requirement, following the close of the quarterly and semi-annual reporting periods. In addition, this amendment allows the recipient of a Superfund State Contract (SSC) to request that EPA apply any overpayment of cost share to another site. The revisions affect States, Indian Tribes, intertribal consortia, and political subdivisions. The revisions will improve the administration and effectiveness of Superfund Cooperative Agreements and Superfund State Contracts.

DATES: This rule is effective October 12, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–SFUND–2010–0085. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the CERCLA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the CERCLA docket is (202) 566–0276.

FOR FURTHER INFORMATION CONTACT:

Angelo Carasea, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation, (5204P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 603–8828; fax number: (703) 603–9112; e-mail address: carasea.angelo@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority
II. Applicability
III. Background
IV. Description of Key Changes
V. Section-by-Section Analysis
VI. Statutory and Executive Order Reviews

I. Statutory Authority

This rule is issued under section 104(a)–(j) of the Comprehensive Environmental Response,