

### 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 safety that may disproportionately affect children.

### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides 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. Under figure 2-1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

### 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 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 significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### 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 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(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. A new temporary § 165.T07-050 is added to read as follows:

#### § 165.T07-050 Safety Zone St. Johns River, Palatka, FL

(a) *Regulated area.* The temporary safety zone encompasses all waters on the St. Johns River, Palatka, FL within a 500-yard radius around the pier from which fireworks will be launched, located at approximate position 29°38.62' N, 081°37.84' W.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Jacksonville, FL.

(c) *Dates.* This rule is effective from 8:45 p.m. to 9:45 p.m. on May 27, 2005.

Dated: May 9, 2005.

**David L. Lersch,**

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

[FR Doc. 05-10274 Filed 5-23-05; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-05-025]

RIN 1625-AA87

#### Security Zone; New York Marine Inspection Zone and Captain of the Port Zone, New York Harbor

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary security zones in portions of the waters around Stapleton Homeport Pier in Upper New York Bay, as well as the New York City Passenger Ship Terminal and Intrepid Museum in the Hudson River and around each participating Fleet Week vessel. This action is necessary to safeguard Naval vessels, Coast Guard vessels, and critical port infrastructure from sabotage, subversive act, or other threats. This rule does not apply to any vessel engaged in the enforcement of these security zones, other law enforcement, port security, or search and rescue activity. This rule prohibits entry into or movement within these security zones without authorization from the Captain of the Port of New York.

**DATES:** This rule is effective from 8 a.m. on May 25, 2005, until 8 p.m. on June 1, 2005.

**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 [CGD01-05-025] and are available for inspection or copying at Coast Guard Activities New York Waterways Management Division, 212 Coast Guard Drive, room 310, Staten Island, NY between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Scott White, Waterways Management Division, Coast Guard Activities New York at (718) 354-4228.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On April 20, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Security Zone; New York Marine Inspection Zone and Captain of the Port Zone, New York Harbor" in the **Federal Register** (70 FR 20493). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held. 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**. This action is necessary due to the event occurring prior to the completion of the 30-day publication period.

#### **Background and Purpose**

Following the terrorist attacks in New York on September 11, 2001, the Ports of New York and New Jersey have been in a heightened state of threat awareness and port security readiness. Highly publicized events that occur in concentrated areas within the greater New York Metropolitan region have resulted in the elevation of Maritime Security (MARSEC) conditions and an increase in port security measures to abate credible and potential threats against the maritime community and public at large.

Fleet Week 2005 will bring a large composition of U.S. and foreign military vessels to the Port of New York for the purpose of promoting military and naval heritage. The event allows for public access to these vessels as they are moored at the port facilities of the New York City Passenger Ship Terminal, Intrepid Museum, and Stapleton Homeport Pier. Such a high profile event with large public throughput could present a potential target for terrorist or subversive actions.

The establishment of these security zones is necessary to protect participating vessels, regional infrastructure, and the public from waterborne attack and subversive activity.

#### **Discussion of Comments and Changes**

The Coast Guard received no comments in response to the notice of proposed rulemaking. Therefore, no changes have been made from the proposed rule.

#### **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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This conclusion is based on the fact that the zones are temporary in nature; the zones implicate

relatively small portions of the waterway; and vessels will be able to transit around the security zones at all times or after a limited wait while the parade passes their location.

#### **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 or operators of vessels intending to transit or anchor in a portion of Upper New York Bay and the Hudson River in which entry will be prohibited by these security zones.

These security zones will not have a significant economic impact on a substantial number of small entities for the following reasons: the zones are temporary in nature; the zones implicate relatively small portions of the waterways; and vessels will be able to transit around the security zones at all times or after waiting for a limited duration while the parade column passes their location.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Scott White, Waterways Management Division, Coast Guard Activities New York at (718) 354–4228. 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.

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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, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. From 8 a.m., May 25, 2005, to 8 p.m. June 1, 2005, add temporary § 165.T01–053 to read as follows:

#### § 165.T01–053 Security Zones; New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Location.* The following waters within the New York Marine Inspection Zone and Captain of the Port Zone are security zones:

(1) *Stapleton Homeport Pier, Upper New York Bay, Staten Island, NY.* All waters of Upper New York Bay within approximately 400 yards of the Stapleton Homeport Pier bound by the following approximate positions: 40°38'00.6" N, 074°04'22.3" W, thence to 40°37'51.1" N, 074°03'46.5" W, thence to 40°37'27.5" N, 074°03'54.5" W, thence to 40°37'33.7" N, 074°04'20.8" W, (NAD 1983) thence along the shoreline to the point of origin.

(2) *New York City Passenger Ship Terminal and Intrepid Museum, Hudson River, Manhattan, NY.* All waters of the Hudson River within approximately 400 yards of Piers 86, 88, 90, and 92 bound by the following points: From the northeast corner of Pier 81 where it intersects the seawall, thence to approximate position 40°45'51.3" N, 074°00'2" W, thence to 40°46'27.7" N, 074°00'04.9" W, thence to the southeast corner of Pier 97 where it intersects the seawall.

(3) *2005 Fleet Week Parade of Ships and Navigational Periods, Port of New York/New Jersey.* All waters of the Port of New York/New Jersey within a 500-yard radius of each vessel participating in 2005 Fleet Week events while underway between Ambrose Light (LLNR 720) and the George Washington Bridge (river mile 11.0) on the Hudson River.

(b) *Enforcement period.* This section will be enforced from 8 a.m. on Wednesday, May 25, 2005, until 8 p.m. on Wednesday, June 1, 2005.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) No vessel or person is allowed within 500 yards of a vessel protected by the security zone described in Paragraph (a)(3), unless authorized by the Captain of the Port or the designated on-scene-patrol personnel.

(3) All persons and vessels must 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, as well as all uniformed Federal, State, and local law enforcement personnel assisting with event patrol. Upon being hailed by a U.S. Coast Guard or other Federal, State, or local law enforcement vessel by siren, radio, flashing light, or other means, the operator of a vessel must proceed as directed.

Dated: May 17, 2005.

**Glenn A. Wiltshire,**

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

[FR Doc. 05–10361 Filed 5–23–05; 8:45 am]

BILLING CODE 4910–15–P

### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 17

RIN 2900–AK01

#### Compensated Work Therapy/ Transitional Residences Program; Correction

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Department of Veterans Affairs (VA) is reinstating regulations that were inadvertently removed by a previous rulemaking. This final rule technical amendment corrects that error and restores the missing regulations.

**DATES:** *Effective Date:* This technical amendment is effective May 24, 2005.

*Applicability Date:* September 17, 2002.

**FOR FURTHER INFORMATION CONTACT:** Richard R. Robinson, Deputy Assistant General Counsel, Office of the General Counsel (023B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202.273.6334 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On January 31, 2002, VA published a final rule in the **Federal Register** (67 FR 4667) amending 38 CFR part 17 to establish provisions regarding housing under the Compensated Work Therapy/ Transitional Residences program (CWT). VA did this by redesignating the existing § 17.49 (Priorities for inpatient care) as § 17.48, and by adding a new § 17.49, Compensated Work Therapy/ Transitional Residences program. Subsequently, on September 17, 2002,