

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[CGD01-07-072]

RIN 1625-AA00

**Safety Zone; Boston Pops Fireworks, Boston, MA**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the "Boston Pops Esplanade Fireworks" display on July 4, 2007 with a rain date of July 5, 2007 in Boston, Massachusetts, temporarily closing all navigable waters of the Charles River within a four hundred (400) yard radius of the fireworks launch barges located at approximate position 42°21.28' N, 071°05.00' W. The safety zone is necessary to protect the life and property of the maritime public from the potential hazards posed by a fireworks display. The safety zone temporarily prohibits entry into or movement within this portion of the Charles River during its closure period.

**DATES:** This rule is effective from 9 p.m. EDT on July 4, 2007 until 11:30 p.m. EDT on July 4, 2007 with a rain date of July 5, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01-07-072 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Joseph Yonker, Sector Boston, Waterways Safety and Response Division, at (617) 223-5007.

**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. The logistics with respect to the fireworks presentation were not determined with sufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of the Charles River during the fireworks display and to provide for the safety of life on navigable waters.

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 encountered in this regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of the Charles River during the fireworks event thus ensuring that the maritime public is protected from any potential harm associated with such an event.

**Background and Purpose**

"Boston 4 Celebrations," the organization responsible for Boston's Fourth of July event, is holding a fireworks display in honor of Independence Day. This rule establishes a temporary safety zone on the navigable waters of the Charles River within a four hundred (400) yard radius of the fireworks launch barges located at approximate position 42°21.28' N, 071°05.00' W. This safety zone is necessary to protect the maritime public from the dangers posed by this event. It will protect the public by prohibiting entry into or movement within the proscribed portion of the Charles River during the fireworks display.

Marine traffic may transit safely outside of the zone during the effective period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to and during the effective period via safety marine information broadcasts and Local Notice to Mariners.

**Discussion of Rule**

This rule is effective from 9 p.m. EDT on July 4, 2007 until 11:30 p.m. EDT on July 4, 2007 with a rain date of 9 p.m. EDT on July 5, 2007 until 11:30 p.m. EDT on July 5, 2007. Marine traffic may transit safely outside of the safety zone in the majority of the Charles River during the event. Given the limited timeframe of the effective period of the zone, the size of the river and the size of the zone itself, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to and during the effective period via Local Notice to Mariners and marine information broadcasts.

**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 will prevent traffic from transiting a portion of the Charles River during this event, the effect of this rule will not be significant for several reasons: Vessels will be excluded from the area of the safety zone for only two and one-half hours, although vessels will not be able to transit the river in the vicinity of the zone, they will be able to operate in other areas of the river during the effective period; and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

**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 a portion of the Charles River from 9 p.m. until 11:30 p.m. EDT on July 4, 2007 or the same times on July 5, 2007 as a rain date. This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons described under the Regulatory Evaluation section.

**Assistance for Small Entities**

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104-121], the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Petty Officer Joseph Yonker, Sector Boston, Waterways Management Division, at (617) 223-5007.

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 affect 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. This rule fits the category selected from paragraph (34)(g), as it would establish a safety zone that will be in effect for only two and one-half hours.

#### 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; 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.T07-072 to read as follows:

#### § 165.T01-072 Safety Zone: Boston Pops Fireworks, Boston, Massachusetts.

(a) *Location.* The following area is a safety zone:

All navigable waters of the Charles River within a four hundred (400) yard radius of the fireworks launch barges located at approximate position 42°21.28' N, 071°05.00' W.

(b) *Effective Date.* This rule is effective from 9 p.m. EDT on July 4, 2007 until 11:30 p.m. EDT on July 4, 2007 with a rain date of 9 p.m. EDT on July 5, 2007 until 11:30 p.m. EDT July 5, 2007.

(c) *Definitions.* As applied to this section;

(1) Designated on-scene U.S. Coast Guard patrol personnel means commissioned officers, warrant officers, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

(2) *[Reserved]*

(d) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the Captain of the Port (COTP), Boston or the COTP's designated representative.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. The safety zone is

closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative on VHF Channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, vessel operators must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: June 12, 2007.

**James L. McDonald,**

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

[FR Doc. E7-12137 Filed 6-22-07; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 07-027]

RIN 1625-AA00

#### Safety Zone; City of Richmond July 3rd Fireworks Show, San Francisco Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone in the navigable waters of San Francisco Bay for the loading, transport, and launching of fireworks used during the City of Richmond Fireworks Display to be held on July 3, 2007. This safety zone is intended to prohibit vessels and people from entering into or remaining within the regulated areas in order to ensure the safety of participants and spectators.

**DATES:** This rule is effective from 8 a.m. to 10 p.m. on July 3, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of the docket COTP San Francisco Bay 07-027 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 United States Coast Guard Sector San Francisco, at (415) 556-2950 extension 136, or the 24-hour Command Center at (415) 399-3547.

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(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, this safety zone is 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.

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

City of Richmond, Library and Community Department Recreation Division will sponsor a fireworks display on July 3, 2007, in the waters of San Francisco Bay on Richmond Inner Harbor near the Point Potrero. The fireworks display is meant for entertainment purposes. This safety zone is issued to establish a temporary restricted area in San Francisco Bay 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. This restricted area around the launch barge is 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 a marine event permit for the fireworks display.

### Discussion of Rule

The Coast Guard is establishing a temporary safety zone in the navigable waters of San Francisco Bay on Richmond Inner Harbor near Point Potrero. During the loading of the fireworks barge, while the barge is being towed to the display location, and until the start of the fireworks display, the temporary safety zone applies to the navigable waters around and under the fireworks barge within a radius of 100 feet. Fifteen minutes prior to and during the twenty minute fireworks display, the area to which the temporary safety

zone applies will increase in size to encompass the navigable waters around and under the fireworks barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on July 3, 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 6 p.m. and 8:30 p.m. on July 3, 2007. During the twenty minute fireworks display, scheduled to commence at approximately 9:15 p.m. on July 3, 2007, the fireworks barge will be located approximately 1,200 feet offshore from Point Potrero in the Richmond Inner Harbor in position 37°54.40' N, 122°21.54' W.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the fireworks barge while the fireworks are loaded at Pier 50, 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 restricted area. These regulations 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 regulation prevents traffic from transiting a portion of San Francisco Bay during the event, the effect of this regulation will not be significant due to the small size and limited duration of the regulated area. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

### 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