

small business refiner's taxable year. If the cooperative owners' interests vary during the year, the cooperative small business refiner shall determine the owners' ratable shares under a consistently applied method that reasonably takes into account the owners' varying interests during the taxable year.

(2) *Cooperative small business refiner denied section 1382 deduction for allocated portion.* In computing taxable income under section 1382, a cooperative small business refiner must reduce its section 179B deduction for the taxable year by an amount equal to the section 179B deduction allocated under this paragraph (e) to the refiner's cooperative owners for the taxable year.

(3) *Time and manner for making election—(i) Time for making election.* The section 179B(e) election for a taxable year must be made by the due date (including extensions) for filing the cooperative small business refiner's Federal income tax return for the taxable year.

(ii) *Manner of making election.* The section 179B(e) election for a taxable year is made by attaching a statement to the cooperative small business refiner's Federal income tax return for the taxable year. The election statement must contain the following information:

(A) The name and identification number of the cooperative small business refiner.

(B) The amount of the section 179B deduction allowable to the cooperative small business refiner for the taxable year (determined before the application of section 179B(e) and this paragraph (e)).

(C) The name and identification number of each cooperative owner to which the cooperative small business refiner is allocating all or some of the section 179B deduction.

(D) The amount of the section 179B deduction that is allocated to each cooperative owner listed in response to paragraph (e)(3)(ii)(C) of this section.

(4) *Irrevocable election.* A section 179B(e) election for a taxable year, once made, is irrevocable for that taxable year.

(5) *Written notice to owners.* A cooperative small business refiner that makes a section 179B(e) election for a taxable year must notify each cooperative owner of the amount of the section 179B deduction that is allocated to that cooperative owner. This notification must be provided in a written notice that is mailed by the cooperative small business refiner to its cooperative owner before the due date (including extensions) of the cooperative small business refiner's

Federal income tax return for the election year. In addition, the cooperative small business refiner must report the amount of the cooperative owner's section 179B deduction on Form 1099-PATR, "Taxable Distributions Received From Cooperatives," issued to the cooperative owner. If Form 1099-PATR is revised or renumbered, the amount of the cooperative owner's section 179B deduction must be reported on the revised or renumbered form.

(f) *Effective/applicability date—(1) In general.* This section applies to taxable years ending on or after June 26, 2008.

(2) *Application to taxable years ending before June 26, 2008.* A small business refiner may apply this section to a taxable year ending before June 26, 2008, provided that the small business refiner applies all provisions in this section, with the modifications described in paragraph (f)(3) of this section, to the taxable year.

(3) *Modifications applicable to taxable years ending before June 26, 2008.* The following modifications to the rules of this section apply to a small business refiner that applies those rules to a taxable year ending before June 26, 2008:

(i) *Rules relating to section 179B election.* The section 179B election for a taxable year ending before June 26, 2008 may be made under the rules provided in Notice 2006-47, rather than under the rules set forth in paragraph (d) of this section.

(ii) *Rules relating to section 179B(e) election.* A section 179B(e) election for a taxable year ending before June 26, 2008 will be treated as satisfying the requirements of paragraph (f) if the cooperative small business refiner has calculated its tax liability in a manner consistent with the election and has used any reasonable method consistent with the principles of section 179B(e) to inform the Internal Revenue Service that an election has been made under section 179B(e) and to inform cooperative owners of the amount of the section 179B deduction they have been allocated.

(4) *Expiration date.* The applicability of § 179B-1T expires on June 24, 2011.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 3.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 4.** In § 602.101, paragraph (b) is amended by adding the following entry

in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *
(b) * * *

CFR part or section where identified and described	Current OMB control No.
1.179B-1T	1545-2076
* * * * *	* * * * *

Kevin M. Brown,
Deputy Commissioner for Services and Enforcement.

Approved: June 15, 2007.

Eric Solomon,
Assistant Secretary of the Treasury (Tax Policy).

[Editorial Note: This document was received at the **Federal Register** on June 23, 2008.]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0096]

RIN 1625-AA00

Safety Zone; Festival of Sail 2008 Ship's Parade; San Diego Harbor, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone, on the navigable waters of San Diego Bay in support of the Festival of Sail 2008 Ship's Parade. This temporary 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 from 10 a.m. until 1 p.m. on August 20, 2008.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-0096 and are available online at <http://>

www.regulations.gov. This material is 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 and the U.S. Coast Guard Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Petty Officer Kristen Beer, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at (619) 278-7233. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 23, 2008, we published a notice of proposed rulemaking (NPRM) entitled *Safety Zone; Festival of Sail 2008 Ship's Parade; San Diego Harbor, San Diego, CA* in the **Federal Register** (73 FR 21880). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The Maritime Museum of San Diego is sponsoring the Festival of Sail 2008 Ship's Parade, which will transit through San Diego Bay. The event is a classic naval review consisting of 15 tall ships of various classes, some of which are restricted in their maneuverability. The sponsor will provide 16 enforcement vessels to patrol this event. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and other users of the waterway.

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times.

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 the San Diego Bay from 10 a.m. to 1 p.m. on August 20, 2008.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only three hours for a period of one day. Vessel traffic can pass safely around the safety zone. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM) and will issue broadcast notice to mariners (BNM) alerts via marine channel 16 VHF 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), in the NPRM 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.

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 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, under the Instruction, 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.

A final environmental analysis checklist and a final 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, and Waterways.

Words of Issuance and Proposed Regulatory Text

■ 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, 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.T11–014 to read as follows:

§ 165.T11–014 Safety Zone; Festival of Sail 2008 Ship's Parade; San Diego Harbor, San Diego, CA.

(a) *Location.* The limits of the moving safety zone are as follows: The route would start at 32°37.15' N, 117°14.07' W and would proceed northeast between green Buoy #3 and red Buoy #4 at 32°38.12' N, 117°13.74' W, then north between green Buoy #5 and red Buoy #6 at 32°39.14' N, 117°13.51' W, then north through the harbor channel to 32°42.07' N, 117°13.90' W, and then northeast to 32°43.11' N, 117°12.71' W, and then east to 32°43.13' N, 117°11.12' W, and finally southeast to the Coronado Bridge at 32°41.45' N, 117°09.18' W. The safety zone will encompass 1000 yards forward, 200 yards each side, and 500 yard aft of each vessel participating in the parade.

(b) *Enforcement Period.* This section will be enforced from 10 a.m. to 1 p.m. on August 20, 2008. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *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 the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander. The Patrol Commander may be contacted via 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: June 10, 2008.

C. V. Strangfeld,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. E8–14512 Filed 6–26–08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0180]

RIN 1625–AA00

Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone upon certain waters of the Patapsco River, Northwest Harbor and Inner Harbor during the movements of the historic sloop-of-war USS CONSTELLATION. This action is necessary to provide for the safety of life on navigable waters during two tows of the vessel in Baltimore, Maryland; one from its berth at Baltimore's Inner Harbor to a berth at the South Locust Point Marine Terminal, and the other from the South Locust Point Marine Terminal to its berth at Baltimore's Inner Harbor. This action will restrict