

meet tide or current requirements; however, the request to delay the bridge closure must be made within 30 minutes following the initial broadcast for the bridge closure. Requests received after the initial 30 minute broadcast will not be granted.

(i) In the event of a bridge operational failure, the bridge operator shall immediately notify the Coast Guard Captain of the Port New York. The bridge owner/operator must provide and dispatch a bridge repair crew to be on scene at the bridge no later than 45 minutes after the bridge fails to operate. A repair crew must remain on scene during the operational failure until the bridge has been fully restored to normal operations or until the bridge is raised and locked in the fully open position.

(j) When the bridge is not tended locally it must be operated from a remote location. A sufficient number of closed circuit TV cameras, approved by the Coast Guard, shall be operated and maintained at the bridge site to enable the remotely located bridge tender to have full view of both river traffic and the bridge.

(k) VHF-FM channels 13 and 16 shall be maintained and monitored to facilitate communication in both the remote and local control locations. The bridge shall also be equipped with directional microphones and horns to receive and deliver signals to vessels.

(l) Whenever the remote control system equipment is disabled or fails to operate for any reason, the bridge operator shall immediately notify the Captain of the Port New York. The bridge shall be physically tended and operated by local control as soon as possible, but no more than 45 minutes after malfunction or disability of the remote system.

(m) Mechanical bypass and override capability of the remote operation system shall be provided and maintained at all times.

Dated: July 6, 2011.

James B. McPherson,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.
[FR Doc. 2011-19322 Filed 7-29-11; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-0567]

RIN 1625-AA00

Safety Zone; San Diego POPS Fireworks, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of San Diego Bay in support of the San Diego POPS Fireworks. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway during scheduled fireworks events. Persons and vessels will be 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: Effective Date: This rule is effective in the CFR from August 1, 2011 until 10 p.m., September 4, 2011. This rule is effective with actual notice for purposes of enforcement beginning 9 p.m. July 1, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0567 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0567 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 Petty Officer Shane Jackson, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278-7262, e-mail Shane.E.Jackson@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 immediate action is necessary to ensure the safety of vessels, spectators, participants, and others in the vicinity of the marine event on the dates and times this rule will be in effect and delay would be impracticable.

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 because delaying the effective date would be impracticable, since immediate action is needed to ensure the public's safety.

Basis and Purpose

The San Diego Symphony Orchestra and Copley Symphony Hall are sponsoring the San Diego POPS Fireworks, which will include a fireworks presentation conducted from a barge in San Diego Bay. The barge will be located near the navigational channel in the vicinity of North Embarcadero. The temporary safety zone will be a 400-foot radius around the firing barge. The sponsor will provide a chase boat to patrol the safety zone and inform vessels of the safety zone. This temporary safety zone is necessary to provide for the safety of the crew, spectators, and other vessels and users of the waterway.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone that will be enforced from 9 p.m. to 10 p.m. on the following dates: July 1-3, July 8-9, July 15-16, July 22-23, July 29-30, August 5-6, August 12-13, August 19-20, August 26-27, and September 2-4, 2011. The limits of the safety zone will be a 400-foot radius around the anchored firing barge in approximate position 32°42.13' N, 117°10.01' W.

The temporary safety zone is necessary to provide for the safety of the crews, spectators, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within the safety zone unless authorized by the Captain of the Port, or his designated representative.

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 and 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 limited duration and size and location of the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times. Vessels may transit through the safety zone with permission from the Captain of the Port San Diego or designated representative.

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 may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the specified waters of San Diego Bay within the safety zone.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. 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), 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 an 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.ID, 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 a temporary safety zone to protect the public from dangers associated with fireworks display. 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 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. A new temporary zone § 165.T11–431 to read as follows:

§ 165.T11–431; Safety zone; San Diego POPS Fireworks, San Diego, CA.

(a) **Location.** The limits of the safety zone will be a 400-foot radius around the anchored firing barge in approximate position 32°42.13' N, 117°10.01' W.

(b) **Enforcement Period.** This section will be enforced from 9 p.m. to 10 p.m. on the following dates: July 1–3, July 8–9, July 15–16, July 22–23, July 29–30, August 5–6, August 12–13, August 19–20, August 26–27, and September 2–4, 2011.

(c) **Definitions.** The following definition applies to this section: *designated representative* means any

commissioned, warrant, or petty officer of the Coast Guard on board a Coast Guard, Coast Guard Auxiliary, or local, state, or federal law enforcement vessel who has been authorized to act on the behalf of the Captain of the Port.

(d) **Regulations.** (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative on scene.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Sector San Diego Command Center. The Command Center may be contacted on VHF-FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative. 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.

(4) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: June 27, 2011.

T.H. Farris,

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

[FR Doc. 2011–19321 Filed 7–29–11; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Parts 370 and 382

[Docket No. RM 2011–5]

Notice and Recordkeeping for Use of Sound Recordings Under Statutory License

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges are amending their regulations to authorize the use of proxy reports of use to permit distribution of royalties collected for the period April 1, 2004, through December 31, 2009, for the public performance of sound recordings by means of digital audio transmissions pursuant to statutory license. Proxy reports of use will be used for those services for which no reports of use were submitted or for which the reports of use were unusable.

DATES: Effective Date: August 31, 2011.

FOR FURTHER INFORMATION CONTACT:

Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by

telephone at (202) 707–7658 or e-mail at crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

Sections 112 and 114 of the Copyright Act, title 17 of the United States Code, are the statutory licenses governing the public performance of sound recordings by certain types of eligible services¹ by means of a digital audio transmission. 17 U.S.C. 112(e), 114. Services operating under these licenses are required to, among other things, pay royalty fees and report to copyright owners of sound recordings on the use of their works. *Id.* The Copyright Act directs the Copyright Royalty Judges (“Judges”) to determine the royalty rates to be paid, 17 U.S.C. 114(f)(1)(A), (f)(2)(A) and 17 U.S.C. 112(e)(3), and to establish regulations to give copyright owners reasonable notice of the use of their works and create and maintain records of use for delivery to copyright owners. 17 U.S.C. 114(f)(4)(A) and 17 U.S.C. 112(e)(4). The purpose of the notice and recordkeeping requirement is to ensure that the royalties collected under the statutory licenses are distributed by a central source—a Collective—or other agents designated to receive royalties from the Collective to the correct recipients. The Judges promulgated final notice and recordkeeping regulations on October 13, 2009.² See 74 FR 52418.

On March 24, 2011, SoundExchange, Inc., the entity designated by the Judges as the Collective, petitioned the Judges to commence a rulemaking proceeding to consider adopting regulations to authorize SoundExchange “to use proxy reporting data to distribute to copyright owners and performers certain sound recording royalties for periods before 2010 that are otherwise undistributable due to licensees’ failure to provide reports of use” or their provision of “reports of use that are so deficient as to be unusable.” Petition of SoundExchange, Inc., for a Rulemaking to Authorize Use of a Proxy to Distribute Certain Pre-2010 Sound Recordings at 1 and 2 (March 24, 2011). The proxy proposed by SoundExchange uses “available data for services of the same license type, for the same year.” *Id* at 9. SoundExchange stated that the proxy would be used to distribute \$28 million in royalties, which represents 4.5% of all the royalties collected for the relevant timeframe—April 1, 2004, through December 31, 2009. *Id.* at 2. In

¹ The types of eligible services consist of subscription, nonsubscription, satellite digital audio radio services, and business establishment services.

² Until that time, interim regulations were in effect. See 71 FR 59010 (October 6, 2006).