Risks. This rule is not an economically significant rule and would 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 would 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. 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.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, 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 (32)(e), of the Instruction, from further environment documentation because it has been determined that the promulgation of operating regulations or procedures for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. On June 5, 2004, § 117.593 is suspended and a new § 117.T594 is added to read as follows:

§ 117.T594 Chelsea River.

(a) All drawbridges across the Chelsea River shall open on signal; except that the P.J. McArdle Bridge, mile 0.3, need not open for the passage of vessel traffic from 10 a.m. to 5 p.m. on June 5, 2004.

(b) The opening signal for each drawbridge is two prolonged blasts followed by two short blasts and one prolonged blast. The acknowledging signal is three prolonged blasts when the draw can be opened immediately and two prolonged blasts when the draw cannot be opened or is open and must be closed.

Dated: April 9, 2004.

John L. Grenier,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 04–9482 Filed 4–26–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–04–016]

RIN 1625–AA00

Security Zone; Military Ocean Terminal Sunny Point and Lower Cape Fear River, Brunswick County, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking

SUMMARY: The Coast Guard proposes implementing a permanent security zone on the Cape Fear River at Military Ocean Terminal Sunny Point (MOTSU), North Carolina. Entry into or movement within the security zone will be prohibited without authorization from the Captain of the Port (COTP). This action is necessary to safeguard the vessels and the facility from sabotage, subversive acts, or other threats.

DATES: Comments and related material must reach the Coast Guard on or before May 27, 2004.

ADDRESSES: You may mail comments and related material to Coast Guard Marine Safety Office, 721 Medical Center Drive, Suite 100, Wilmington, North Carolina 28401. The Port Operations Department, Waterways Management Division maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Marine Safety Office, 721 Medical Center Drive, Suite 100, Wilmington, North Carolina 28401, between 7:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Charles A. Roskam II, Chief Port Operations (910) 772–2200 or toll free (877) 229–0770.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–04–016), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Marine Safety Office, Wilmington at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

Vessels frequenting the Military Ocean Terminal Sunny Point (MOTSU) facility serve as a vital link in the transportation of military munitions and explosives in support of Department of Defense missions at home and abroad. This vital transportation link is potentially at risk to acts of terrorism, sabotage and other criminal acts. Munitions and explosive laden vessels also pose a unique threat to the safety and security of the MOTSU facility, vessel crews, and others in the maritime community and the surrounding community should the vessels be

subject to acts of terrorism or sabotage, or other criminal acts. The ability to control waterside access to munitions and explosive laden vessels moored to the MOTSU facility is critical to national defense and security, as well as to the safety and security of the MOTSU facility, vessel crews, and others in the maritime community and the surrounding community. Therefore, the Coast Guard proposes to establish this security zone to safeguard human life, vessels and facilities from sabotage, terrorist acts or other criminal acts.

Discussion of Proposed Rule

The proposed rule is for a permanent security zone located on the Cape Fear River, North Carolina adjacent to the MOTSU facility and includes the area bound by the following points: beginning at a point located at 34°02.03′ N, 077°56.60′ W near Cape Fear River Channel Lighted Buoy 9 (LLNR 30355), extending south along the shore to 34°00.00′ N, 077°57.25′ W, proceeding to the southern most tip of the Zone at 33°59.16′ N, 077°57.00′ W at then proceeding north to 34°00.65′ N, 077°56.41′ W at Cape Fear River Channel Lighted Buoy 31(LLNR 30670 & 39905) back to the point of origin at 34°02.03′ N, 077°56.60′ W.

The security zone is necessary to protect MOTSU and vessels moored at the facility, their crews, others in the maritime community and the surrounding communities from subversive or terrorist attack that could cause serious negative impact to vessels, the port, or the environment, and result in numerous casualties.

No person or vessel may enter or remain in the security zone at any time without the permission of the Captain of the Port, Wilmington. Each person or vessel operating within the security zone must obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from this security zone.

Regulatory Evaluation

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation restricts access to the security zone, the effect of this regulation will not be significant because: (i) The COTP or his or her representative may authorize access to the security zone; (ii) the security zone will be enforced for limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would 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 and operators of vessels intending to transit or anchor in the vicinity of Military Ocean Terminal Sunny Point. This includes owners and operators of vessels entering the zone.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The security zone is not located in an area that would impede commercial or recreational traffic.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Charles A. Roskam II, Chief, Port Operations (910) 772–2200 or toll free (877) 229–0770.

Collection of Information

This proposed rule would call 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 proposed 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 proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this proposed 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.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, 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. A final ''Environmental Analysis Check List'' 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, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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. Add § 165.T05–016 to read as follow:

§ 165.T05–016—Security Zone: Military Ocean Terminal Sunny Point and Lower Cape Fear River, NC.

(a) *Location.* The following area is a security zone: the area and waters bound by the following points: beginning at a point located at 34°02.03′ N, 077°56.60′ W near Cape Fear River Channel Lighted Buoy 9 (LLNR 30355), extending south along the shore to 34°00.00′ N, 077°57.25′ W, proceeding south to 33°59.16′ N, 077°57.00′ W at then proceeding north to 34§ 00.65' N, 077°56.41′ W at Cape Fear River Channel Lighted Buoy 31(LLNR 30670 & 39905) back to the point of origin at 34°02.03′ N, 077°56.60′ W.

(b) *Captain of the Port.* As used in this section, *Captain of the Port* means the Commanding Officer of the Marine Safety Office Wilmington, NC, or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on his or her behalf.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in 33 CFR 165.33.

(2) Persons or vessels with a need to enter into or pass through the security zone, must first request authorization from the Captain of the Port. The Captain of the Port's representative enforcing the zone can be contacted on VHF marine band radio, channel 16. The Captain of the Port can be contacted at (910) 772–2000 or toll free (877) 229–0770.

(d) *Enforcement.* The Captain of the Port may be assisted by the U.S. Army in the patrol and enforcement of this security zone.

Dated: April 8, 2004.

Jane M. Hartley,

Captain, U.S. Coast Guard, Captain of the Port, Wilmington, North Carolina.

[FR Doc. 04–9481 Filed 4–26–04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–03–102]

RIN 1625–AA00

Safety Zones; Coast Guard Activities New York Fireworks Displays

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish five permanent safety zones for fireworks displays located in Pierhead Channel, NJ; Lower New York Bay; Raritan Bay; Long Island Sound; the Hudson River; and revise the section title. This action is necessary to protect the life and property of the maritime public from the hazards posed by these events. Entry into or movement within these proposed zones during the effective periods is prohibited without approval of the Captain of the Port (COTP), New York.

DATES: Comments and related material must reach the Coast Guard on or before May 27, 2004.

ADDRESSES: You may mail comments and related material to Waterways Oversight Branch (CGD01–03–102), Coast Guard Activities New York, 212 Coast Guard Drive, room 203, Staten Island, NY 10305. The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Waterways Oversight Branch, room 203, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. Morton, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354–4191.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–03–102), indicate the specific section of this document to which each comment applies, and give the reason for each