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DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4

[Docket No. 060518134-6246-02]

RIN 0605-AA22

Disclosure of Government Information; Responsibility for Responding to Freedom of Information Act Requests

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce (Commerce) publishes this action to finalize its interim final rule that established the date that the Department uses in identifying those records that it may consider when responding to a Freedom of Information Act request. The Department takes this action pursuant to a court order that enjoined it from further use of its regulations.

DATES: This rule is effective on May 31, 2007.

FOR FURTHER INFORMATION CONTACT: Brenda Dolan, 202-482-3258.

SUPPLEMENTARY INFORMATION: On June 1, 2006, the Department of Commerce published and requested comments on an interim final rule that amended its regulations to establish the date that the Department uses in identifying those records that it may consider when responding to a Freedom of Information Act request (71 FR 31073). The interim final rule revised the regulations to state that the records that are considered responsive to a FOIA request include those records that are within the Department's possession and control as of the date the Department begins its search for those records. We received no public comments on the interim final rule. Therefore, the provisions of the interim final rule published on June 1, 2006 are adopted without change.

Classification

It has been determined that this notice is not significant for purposes of E.O. 12866.

The Department finds good cause to waive the 30-day delay in effectiveness required by 5 U.S.C. 553(d)(3). In order to implement, in a timely manner, the Department's new regulation that establishes the date that the Department uses in identifying those records that it may consider when responding to a request for records, the Department waives the 30-day delay in

effectiveness. If the Department delayed the effectiveness of this action, the Department would violate an April 24, 2006 court order that requires the Department to no longer use the regulations. To ensure timely compliance with the Court's order, the Department makes this rule effective upon publication.

Dated: May 23, 2007.

Brenda Dolan,

Departmental Freedom of Information and Privacy Act Officer.

List of Subjects in 15 CFR Part 4

Freedom of Information and Privacy.

■ For the reasons set forth above, the Department adopts without change the provisions in the interim final rule published on June 1, 2006 (71 FR 31073).

[FR Doc. E7-10435 Filed 5-30-07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05-07-012]

RIN 1625-AA08

Special Local Regulations for Marine Events; Sail Virginia 2007, Port of Hampton Roads, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily establishing special local regulations for "Sail Virginia 2007" marine event. This action is necessary to provide for the safety of life on navigable waters before, during, and after Sail Virginia 2007 activities. This special local regulation is intended to restrict vessel traffic in the vicinity of the tall ship parade as the parade transits the Chesapeake Bay, Hampton Roads, the James and Elizabeth Rivers and Norfolk Harbor.

DATES: This rule is effective from 6 a.m. June 8, 2007 to 11 p.m. on June 9, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD05-07-012) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

LTJG TaQuitia Winn, U.S. Coast Guard Sector Hampton Roads, at (757) 668-5580.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 19, 2007, we published a Notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Sail Virginia 2007, Port of Hampton Roads, Virginia in the **Federal Register** (72 FR 12746). 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**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, support craft and other vessels transiting the event area. However, advance notifications will be made to affected waterway users via marine information broadcasts, area newspapers, and local radio stations.

Background and Purpose

During the period June 7-12, 2007, the City of Norfolk and Norfolk Festevents Ltd. will sponsor "Sail Virginia 2007", a tall ships marine event. The six-day event will include more than twenty tall ships from around the world in recognition of the Jamestown 1606-1607 voyage, commemorating the 400th anniversary of our nation's birth place. More than 25 tall ships from around the world have been invited to participate.

Planned events in the Port of Hampton Roads include: The arrival of more than 20 tall ships and other vessels at Lynnhaven Anchorage on June 7 and 8, 2007; a Parade of Sail of approximately 20 tall ships and other vessels from their respective anchorages to Town Point Park, downtown Norfolk, on June 8, 2007; fireworks display adjacent to the Norfolk and Portsmouth seawalls on June 9, 2007; and the scheduled departure of the majority of vessels on June 12, 2007. This event will be combined with the annual Norfolk Harborfest held each June.

The parade of sails event planned during this period will be conducted on the waters of the Chesapeake Bay, Hampton Roads the Elizabeth River and Norfolk Harbor, Virginia. Vessels participating in the "Tall Ships Parade of Sails" will rendezvous on June 8, 2007 in the vicinity of Thimble Shoal Channel lighted bell buoy "13" LLNR

9275 as depicted on NOAA Chart 12222 and will proceed inbound through the Elizabeth River to Norfolk Harbor Entrance Reach terminating at the Norfolk Harbor waterfront.

On the evening of June 9, 2007, a fireworks display will be launched from several barges in Norfolk harbor. The fireworks hazardous fall out area will extend on and over Norfolk harbor waters. A fleet of spectator vessels is expected to gather near the event site to view the fireworks display. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of spectators and transiting vessels.

The Coast Guard anticipates numerous spectator craft for these events. Operators should expect significant vessel congestion along the parade route and viewing areas for the fireworks display.

The purpose of these regulations is to promote maritime safety and protect participants and the boating public in the Port of Hampton Roads during the "Tall Ship's Parade of Sails" event. The regulations will establish a clear parade route for the participating vessels and no wake zones along the parade route. The regulations will impact the movement of all vessels operating in the specified areas of the port.

Vessel operators are also reminded that Norfolk Naval Base will be strictly enforcing the existing restricted area defined at 33 CFR 334.300 during all Sail Virginia 2007 activities.

We recommend that vessel operators visiting the Port of Hampton Roads for this event obtain up to date editions of the following charts of the area: Nos. 12222, 12245, 12253, and 12254 to avoid anchoring within charted cable or pipeline areas.

With the arrival of Sail Virginia 2007 and spectator vessels in the Port of Hampton Roads for this event, it may be necessary to curtail normal port operations to some extent. Interference will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled events.

Because of the danger posed by numerous sailing vessels maneuvering in close proximity of each other during the parade, special local regulations are necessary. For the safety concerns noted and to address the need for vessel control and vessel safety, all vessel traffic will be temporarily restricted in the vicinity of the parade to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the Notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Port of Hampton Roads, Virginia.

The Coast Guard previously stated in the preamble for the Notice of proposed rulemaking (NPRM) for this temporary final rule published on March 19, 2007, entitled Special Local Regulations for Marine Events; Sail Virginia 2007, Port of Hampton Roads, Virginia in the **Federal Register** (72 FR 12746), that it would implement the regulation found at 33 CFR 100.501 for the fireworks portion of this event. The intent of that statement in the NPRM was to convey that a regulated area of the same dimensions as that found at 33 CFR 100.501 would be implemented as part of this regulation to provide safety for the maritime community during this fireworks event. As the regulatory text for this area was already in place at 33 CFR 100.501, we did not include a description of that regulated area in the NPRM for this event.

The Coast Guard will not implement that regulation at 33 CFR 100.501 as was previously discussed in the NPRM for this event. The regulation at 33 CFR 100.501 is intended to be implemented for marine events listed at Table 1 of 33 CFR 100.114. Instead of stating we will implement the regulation found at 33 CFR 100.501 in this final rule, we are publishing the dimensions of the regulated area found at 33 CFR 100.501 and describing for clarity in this temporary final rule our original intention—to use those dimensions for a regulated area for the fireworks event described herein.

Thus in an effort to make this rule more clearly understood we describe the regulated area here and in the regulatory text herein that will be enforced during the fireworks display on the evening of June 9, 2007 in Norfolk harbor, Virginia. The fireworks fall out area will include the following regulated area: The waters of the Elizabeth River and its branches from shore to shore, bounded to the northwest by a line drawn across the Port Norfolk Reach section of the Elizabeth River between the northern corner of the landing at Hospital Point, Portsmouth, Virginia, latitude 36°50'51.0" North, longitude 76°18'09.0" West and the north corner of the City of Norfolk Mooring Pier at the foot of Brooks Avenue located at latitude 36°51'00.0" North, longitude 76°17'52.0" West; bounded on the southwest by a

line drawn from the southern corner of the landing at Hospital Point, Portsmouth, Virginia, at latitude 36°50'50.0" North, longitude 76°18'10.0" West, to the northern end of the eastern most pier at the Tidewater Yacht Agency Marina, located at latitude 36°50'29.0" North, longitude 76°17'52.0" West; bounded to the south by a line drawn across the Lower Reach of the Southern Branch of the Elizabeth River, between the Portsmouth Lightship Museum located at the foot of London Boulevard, in Portsmouth, Virginia at latitude 36°50'10.0" North, longitude 76°17'47.0" West, and the northwest corner of the Norfolk Shipbuilding & Drydock, Berkley Plant, Pier No. 1, located at latitude 36°50'08.0" North, longitude 76°17'39.0" West; and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50'21.5" North, longitude 76°17'14.5" West, and Norfolk at latitude 36°50'35.0" North, longitude 76°17'10.0" West.

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.

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

The primary impact of these regulations will be on vessels wishing to transit the affected waterways during the Parade of Sail. Although these regulations prevent traffic from transiting a portion of the Chesapeake Bay and Elizabeth River during this event, that restriction is limited to approximately seven hours in duration, affects only a limited area that is totally contained within an already established regulated navigation area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area. Moreover, the nature of the event itself may hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, area newspapers and local radio stations, 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 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 would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate or anchor in portions of the Chesapeake Bay, Hampton Roads, Elizabeth River, Norfolk Harbor from 7 a.m. until 3 p.m. June 8, 2007 during this event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons: This rule would be in effect for only a limited period, affect only limited areas that are totally contained within an already established regulated navigation area, and marine advisories will be issued allowing mariners to adjust their plans accordingly. Vessel traffic may be allowed to pass through the regulated areas with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through a regulated area during an event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the event.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered 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 would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact U.S. Coast Guard Sector Hampton Roads, at the address listed under **ADDRESSES**. 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.

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).

Collection of Information

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

Taking of Private Property

This 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 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 would not create an environmental risk to health or risk to safety that might 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. 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 M16475.1D, and Department of Homeland Security Management Directive 5100.1 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) (h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2-1, paragraph (34) (h), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35-T05-012 to read as follows:

§ 100.35-T05-012, **Special Local Regulations; Sail Virginia 2007, Port of Hampton Roads, VA.**

(a) *Regulated area.* (1) The regulated area in support of the "Sail Virginia 2007" parade of sails marine event includes navigable waters within and 100 yards abeam of, 300 yards ahead of, and all waters between participating vessels transiting the Chesapeake Bay Thimble Shoal Channel, Hampton Roads Norfolk Harbor Entrance Reach, Elizabeth River Craney Island Reach, Lambert Bend, Lambert Bend to Pinner Point, Pinner Point to Town Point Reach, Town Point Reach to Norfolk Harbor, Virginia.

(2) The fireworks fall out area will include the following regulated area: The waters of the Elizabeth River and its branches from shore to shore, bounded to the northwest by a line drawn across the Port Norfolk Reach section of the Elizabeth River between the northern corner of the landing at Hospital Point, Portsmouth, Virginia, latitude 36°50'51.0" North, longitude 76°18'09.0" West and the north corner of the City of Norfolk Mooring Pier at the foot of Brooks Avenue located at latitude 36°51'00.0" North, longitude 76°17'52.0" West; bounded on the southwest by a line drawn from the southern corner of the landing at Hospital Point, Portsmouth, Virginia, at latitude 36°50'50.0" North, longitude 76°18'10.0" West, to the northern end of the eastern most pier at the Tidewater Yacht

Agency Marina, located at latitude 36°50'29.0" North, longitude 76°17'52.0" West; bounded to the south by a line drawn across the Lower Reach of the Southern Branch of the Elizabeth River, between the Portsmouth Lightship Museum located at the foot of London Boulevard, in Portsmouth, Virginia at latitude 36°50'10.0" North, longitude 76°17'47.0" West, and the northwest corner of the Norfolk Shipbuilding & Drydock, Berkley Plant, Pier No. 1, located at latitude 36°50'08.0" North, longitude 76°17'39.0" West; and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50'21.5" North, longitude 76°17'14.5" West, and Norfolk at latitude 36°50'35.0" North, longitude 76°17'10.0" West.

(b) *Definitions.* (1) Coast Guard Patrol Commander means any commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) Official Patrol means any person or vessel authorized by the Coast Guard Patrol Commander or approved by Commander, Coast Guard Sector Hampton Roads to enforce this special local regulation.

(3) Sail Virginia 2007 Vessels includes all vessels participating in Sail Virginia 2007 under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

(4) Parade of sail is the inbound procession of Sail Virginia 2007 vessels as they navigate designated routes in the Port of Hampton Roads on June 8, 2007.

(5) Spectator vessel includes any vessel, commercial or recreational, being used for pleasure or carrying passengers that are in the Port of Hampton Roads to observe part or all of the events attendant to Sail Virginia 2007.

(c) *Special local regulations.* (1) Except for the Official Patrol, participants, and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. (2) Any person in the regulated area must stop immediately when directed to do so by any Official Patrol and then proceed only as directed.

(3) All persons and vessels shall comply with the instructions of the Official Patrol.

(4) When authorized to transit within the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the parade and near other persons and vessels.

(4) The Coast Guard vessels enforcing this section can be contacted on VHF-FM Marine Band Radio, Channels 13 and 16. Coast Guard Sector Hampton Roads can be contacted at telephone number (757) 638-6633.

(5) Coast Guard Sector Hampton Roads will notify the public of changes in the status of this section by Marine Safety Radio Broadcast on VHF-FM Marine Band Radio, Channel 22 (157.1 MHz).

(d) *Enforcement period.* This section will be enforced from 6 a.m. June 8, 2007, to 11 p.m. June 9, 2007.

Dated: May 15, 2007.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05-07-016]

RIN 1625-AA08

Special Local Regulations for Marine Events; Atlantic Ocean, Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the "Ocean City Maryland Offshore Challenge", a power boat race to be held on the waters of the Atlantic Ocean adjacent to the shoreline at Ocean City, MD. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the regulated area during the power boat race.

DATES: This rule is effective from 9 a.m. to 5 p.m. on June 16 and 17, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD05-07-016) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398-6204.