

Shipments of rough diamonds from the United States must also meet additional Department of the Treasury requirements identified in the Office of Foreign Assets Control's Rough Diamonds Control Regulations, title 31 CFR part 592.

Executive Order 12866

This final rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This final rule does not contain policies with Federalism implications, as that term is defined in E.O. 13132.

Paperwork Reduction Act

The collection of information required in this final rule has been approved by the Office of Management and Budget under the Paperwork Reduction Act (PRA). This rule contains a collection-of-information subject to the requirements of the PRA (44 U.S.C. 3501 *et seq.*), which has been approved under OMB control number 0607-0152. The reporting and recordkeeping burden for this requirement is estimated at 10 total burden hours. Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a current, valid Office of Management and Budget (OMB) control number.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce, certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605 (b)), that this rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published with the proposed rule. No comments were received regarding the economic impact of this final rule. As a result, no final regulatory flexibility analysis was prepared.

List of Subjects in 15 CFR Part 30

Economic statistics, Foreign trade, Exports, and Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, title 15 CFR part 30, is amended as follows:

PART 30—FOREIGN TRADE STATISTICS

■ 1. The authority citation for part 30 is revised to read as follows:

Authority: 5 U.S.C. 301; 13 U.S.C. 301–307; 19 U.S.C. 3901–3913; Reorganization Plan 5 of 1950 (3 CFR 1949–1953 Comp., 1004); Executive Order 13312, Implementing the Clean Diamond Act, 68 FR 45151 (31 CFR Part 592); and Department of Commerce Organization Order No. 35–2A, July 22, 1987, as amended, and No. 35–2B, December 20, 1996, as amended.

Subpart E—Electronic Filing Requirements—Shipper's Export Information

■ 2. In § 30.63, add a paragraph (b)(22) to read as follows:

§ 30.63 Information required to be reported electronically through AES (data elements).

* * * * *

(b) * * *

(22) *Kimberley Process Certificate (KPC) number.* The unique identifying number of the KPC issued by the United States Kimberley Process Authority that must accompany any export shipment of rough diamonds. Rough diamonds are classified under 6-digit Harmonized System subheadings 7102.10, 7102.21, and 7102.31. Enter the KPC number in the license number field excluding the 2-digit U.S. ISO country code.

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Dated: May 10, 2005.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. 05–9629 Filed 5–13–05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 335 and 340

Docket No: 050406093-5093-01

RIN 0625-AA67

Imports of Certain Worsted Wool Fabric: Implementation of Tariff Rate Quota Established Under Title V of the Trade and Development Act of 2000.

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Interim Final Rule, Request for Comments

SUMMARY: The Department of Commerce (“Commerce”) is amending its regulation, which governs the establishment of tariff rate quotas (TRQ) for a limited quantity of worsted wool fabrics pursuant to Title V of the Trade

and Development Act of 2000 (“the Act”) as amended by the Trade Act of 2002 and the Miscellaneous Trade Act of 2004, (Public law 108-429). Section 501(e) of the Act requires the President to fairly allocate TRQs on the import of certain worsted wool fabric. Section 504(b) of the Act authorizes the President to modify the limitations on worsted wool fabric imports under TRQs. The President has delegated to the Secretary of Commerce the authority to allocate the quantity of imports under the TRQs (specifically for wool products under HTS headings, 9902.51.11 and 9902.51.12) and to determine whether the limitations on the quantity of imports under the TRQs should be modified. This interim rule is necessary to implement the amendment to the Act included in the Miscellaneous Trade Act of 2004, (Public law 108-429). Principally, this document amends the regulations to specify which HTS categories may be allocated as TRQs and to eliminate Commerce's authority to modify these quotas.

DATES: This interim final rule is effective May 16, 2005 To be considered, written comments must be received by 5:00 p.m. on July 15, 2005.

ADDRESSES: Comments should be addressed to: James C. Leonard III, Deputy Assistant Secretary for Textiles and Apparel, Room 3001, United States Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Background:

The Act created Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11 and HTS heading 9902.51.12, which established two TRQs, providing for temporary reductions for three years in the import duties on two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns, the reduction in duty is limited to 2,500,000 square meter equivalents or such other quantity proclaimed by the President; and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less, the reduction in duty is limited to 1,500,000 square meter equivalents or such other quantity proclaimed by the President, respectively. The Act required that the TRQs be allocated. More specifically, the President must ensure that the TRQs are fairly allocated to persons (including

firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits, suit-type jackets and trousers in the United States and who apply for an allocation based on the amount of such suits cut and sewn during the prior calendar year.

The Act required that the President annually consider requests by U.S. manufacturers of certain worsted wool apparel to modify the limitation on the quantity of fabric that may be imported under the TRQs, and granted the President the authority to proclaim modifications to the limitations. In determining whether to modify the limitations, the President must consider specified U.S. market conditions with respect to worsted wool fabric and worsted wool apparel.

In Presidential Proclamation 7383, of December 1, 2000, the President authorized the Secretary of Commerce: (1) to allocate the imports of worsted wool fabrics under the TRQs; (2) to annually consider requests from domestic manufacturers of worsted wool apparel to modify the limitation on the quantity of worsted wool fabrics that may be imported under the TRQs; (3) to determine whether the limitations on the quantity of imports of worsted wool fabrics under the TRQs should be modified and to recommend to the President that appropriate modifications be made; and (4) to issue regulations to implement relevant provisions of the Act.

On December 3, 2004, the Act was amended pursuant to the Miscellaneous Trade Act of 2004, Public Law 108-429. The amendment altered the HTS categories of worsted wool eligible for the TRQs under the Act. Specifically, the amendment renumbered HTS heading 9902.51.12 to HTS heading 9902.51.15. The Miscellaneous Trade Act of 2004 increased to 5 million square meters from 3.5 million square meters the TRQ for worsted wool fabrics with average fiber diameters of 18.5 microns or less (HTS 9902.51.15, previously numbered HTS 9902.51.12); and increased to 5.5 million square meters from 4.5 million square meters the TRQ for the worsted wool fabrics with average fiber diameters greater than 18.5 microns (9902.51.11).

The amendment also authorized Commerce to allocate a new HTS category, HTS 9902.51.16. This HTS refers to worsted wool fabric with average fiber diameters of 18.5 microns or less. The amendment further distinguished that HTS 9902.51.16 is for worsted wool for the benefit of persons (including firms, corporations, or other legal entities) who weave worsted wool fabric in the United States.

Finally, the Miscellaneous Trade Act of 2004, Public Law 108-429 repealed Commerce's authorization to determine whether the limitations on the quantity of imports of worsted wool fabrics under the TRQs should be modified and to recommend to the President that appropriate modifications be made.

Part 335

This interim final rule implements the amendments to the Act by revising the language of 15 CFR 335 to indicate that HTS category 9902.51.12 has been renumbered to 9902.51.15. In addition, for further clarification of the definition of 9902.51.15, this HTS heading has been revised to include only worsted wool fabric suitable for use in making suits, suit type jackets, or trousers with average fiber diameters of 18.5 microns or less; for the benefit of persons (including firms, corporations, or other legal entities) who cut and sew men's and boy's wool suits, suit-type jackets and trousers in the United States. Former HTS heading 9902.51.12 was simply defined as worsted wool fabric suitable for use in making suits, suit type jackets, or trousers with average fiber diameters of 18.5 microns or less. Although the regulation indicated in other sections that for both HTS headings 9902.51.11 and former 9902.51.12 that the fabric was for the benefit of persons (including firms, corporations, or other legal entities) who cut and sew men's and boy's wool suits, suit-type jackets and trousers in the United States, the definition did not specifically include this language. Accordingly, in order to clarify the distinction between HTS headings 9902.51.11 and 9902.51.15, which is for the benefit of persons who cut and sew men's and boy's wool suits and suit-like jackets and trousers, and new HTS heading 9902.51.16, which is for the benefit of persons who weave wool fabric suitable for use in men's and boy's suits, this rule has included additional language in the definition of HTS headings 9902.51.11 and 9902.51.15. The allocation process for HTS 9902.51.11 and 9902.51.15 remains the same.

Pursuant to current regulations, allocation of TRQs for 9902.51.11 and 9902.51.15 is limited to persons who cut and sew three types of garments during the calendar year of the application: (1) men's and boys' worsted wool suits; (2) men's and boys' worsted wool suit-type jackets; and (3) men's and boys' worsted wool trousers. Only manufacturers of all three types of garments are eligible for an allocation. Pursuant to the current regulations that allocation be based on the men's and boys' worsted wool suits

cut and sewn during the prior calendar year, in allocating the TRQs, only production of men's and boys' worsted wool suits will be considered. To be considered, a worsted wool garment must contain at least 85 percent by weight worsted wool, which is consistent with the definitions of wool fiber and fabric in the Act and the Conference Report.

In order to fairly allocate the TRQs, manufacturers that utilize imported worsted wool fabric in production will be provided a greater allocation than manufacturers that utilize domestic worsted wool fabric. This allows the manufacturers that will actually use the imported fabric that is subject to the TRQs to obtain a relatively greater share of the fabric, as compared to manufacturers that use only domestic fabric. For the purpose of calculating allocations, suit production are increased by the ratio of imported fabric used to total fabric used in the production of men's and boys' suits. For example, if an applicant uses imported fabric for 30 percent of its worsted wool suits production, that applicant's suit production level will be increased by 30 percent for purposes of calculating the applicant's allocation.

In addition, this interim final rule amends the sections 335.3(c) and (d)(2) to establish the allocation process for HTS category 9902.51.16. For allocation of TRQ for HTS 9902.51.16, the applicant is required to submit the quantity and value of the Worsted Wool Fabric woven in the United States. This data must indicate actual production (not estimates) of Worsted Wool Fabric containing at least 85 percent worsted wool fabric by weight with an average diameter of 18.5 microns or less. For applications for the 2005 Tariff Rate Quota year, production data must be provided for full calendar year 2004. For allocations of Tariff Rate Quota years after 2005, production data must be provided for the first six months of the year of the application. This data will be annualized for the purpose of making Tariff Rate Quota allocations. In order to ensure that the TRQs are fully utilized, a licensee that will not import the full quantity allocated to it is required to surrender the unused allocation to the Department for reallocation.

Section 335.4 is amended to state that for HTS 9902.51.16, the Tariff Rate Quota will be allocated based on an applicant's Worsted Wool Fabric production, to be consistent with current regulations. The allocation process for HTS 9902.51.16 is essentially the same as that for HTS 9902.51.11 and 9902.51.15 with the small distinction that the allocation

process in 9902.51.11 and 9902.51.15 takes into consideration the amount of imported fabric used by the applicant while the allocation process for 9909.51.16 does not because this factor is inapplicable to this HTS.

In addition, Commerce amends § 335.6(e) to change the manner in which the unused allocation will be determined to take into consideration the extension of the TRQs from 2005 to 2007. Under the previous scheme, a Licensee whose unused allocation in two consecutive Tariff Rate Quota Years exceeds five percent of the quantity set forth in its license would have its allocation reduced in the subsequent Tariff Rate Quota Year by a quantity equal to 50 percent of its unused allocation from the prior year. Under the new scheme, a Licensee whose unused allocation in two **or more** consecutive Tariff Rate Quota Years exceeds five percent of the quantity set forth in its license shall have its allocation reduced in the subsequent Tariff Rate Quota Year by a quantity equal to 50 percent of its unused allocation from the prior year. This change was made as a result of the extension of the TRQs from 2005 to 2007. The original TRQ was, by statute, valid for three years only (2001-2003) therefore the reduction of the TRQ due to unused allocation could only be applied twice during the three year period. However, because the program has been extended to 2007, companies may now fail to use 95 percent of their TRQ in more than two consecutive years. Therefore, Commerce makes this change to clarify that the reduction in their allocation during a third, fourth or fifth consecutive year will be 50 percent of the unused allocation.

Part 340

Because the Act repealed Commerce's authorization to determine whether the limitations on the quantity of imports of worsted wool fabrics under the TRQs should be modified and to recommend to the President that appropriate modifications be made, Commerce removes 15 CFR part 340 in its entirety and removes 15 CFR 335.7 to eliminate the modification provisions.

Allocation of HTS 9902.21.11, 9902.21.15, and 9902.51.16

Section 501(e) of the Act requires that the worsted wool fabrics imported under the TRQs be "fairly allocated" to persons "who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States and who apply for an allocation based on the amount of such suits cut and sewn during the prior calendar year." As the Joint Explanation of the

Committee of Conference ("Conference Report") makes clear, Congress intended the TRQs to address the duty situation faced by U.S. wool suit manufacturers, in which worsted wool fabric is subject to considerably higher duties than worsted wool suits, a situation compounded by reductions in tariffs on wool suits under free trade agreements with Canada and Mexico.

The Department, promptly upon promulgation of these regulations, intends to allocate the increased TRQ amounts for 9902.21.11 and 9902.21.15. The Department will also begin the process of soliciting applications for a license for an allocation of the 2005 TRQs on worsted wool fabrics for 9902.51.16. In following years, applications will be solicited on or around August 31, in order to allow companies to be informed of their allocation as early as possible while still allowing an allocation based on previous year production. The Department intends to make its determination regarding the allocation on or about November 1 and to issue licenses no later than December 31 of the year preceding the tariff rate quota year.

Pursuant to regulations, each of the three TRQs will be allocated based on previous year production. The products under HTS 9902.51.16 will be allocated based on production of this type of worsted wool fabric, while the tariff rate quota on worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS 9902.51.15) will be allocated based on production utilizing this type of worsted wool. We will also continue to allocate the tariff rate quota on worsted wool fabric with average fiber diameters greater than 18.5 microns (HTS 9902.51.11) based on production utilizing this type of worsted wool.

Classification

Administrative Procedure Act: The Department of Commerce finds good cause, under 5 USC 553(b)(B), to waive the requirement to provide prior notice and opportunity for public comment as such requirement is impracticable and contrary to the public interest. The new HTS categories and allocation system must be implemented as soon as possible to allow TRQ recipients to import their products under the new HTS categories and allocation system.

If the new HTS category and allocation system are not implemented immediately, TRQ recipients will be required to file amended entries with Customs and Border Protection (CBP) in order to get the duty benefit. Amended entries are costly and time consuming.

To obtain the duty benefits under a TRQ from a license issued after wool fabric has cleared CBP, a Licensee would need to request its brokers and other suppliers to file amended entries on its behalf with CBP in order to obtain the duty rebates applicable to the TRQ license. This process is time consuming and costly as additional staff would need to be hired and extra hours devoted to research and file amended entries. Brokers would need to research thousand of shipments (an average of 4,800 shipments per year were entered under the wool TRQ program from 2001 to 2004), imported into several different ports, in order to file amended entries. Brokers and other suppliers do not always have the resources and personnel in order to investigate individual shipments for individual companies to file entries retroactively. The average cost charged by brokers and suppliers for researching shipments range from \$100 to \$200 to file amended entries, which would in effect nullify the duty benefit for small shipments (50 square meters) which make up the bulk of the entries for several licensees.

For the same reasons above, there is good cause to find under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. As stated above, the process of researching shipments to file amended entries is time consuming and costly. If this regulation is not implemented immediately, the costs incurred by TRQ recipients would in effect nullify any duty benefits, particularly for those TRQ recipients who have small shipments that make up the entries for several licensees.

While these regulations will be effective upon publication, the Department of Commerce hereby solicits comments on these interim regulations and will amend them in final regulations if appropriate. The Department is particularly interested in comments concerning any impact these regulations might have on small-or-medium sized businesses.

Regulatory Flexibility Act: Because notice and comment are not required under 5 U.S.C. 553 or any other law, the analytical requirements of 5 U.S.C. 601 et seq. are not applicable and have not been prepared.

Executive Order 12866: This rule has been determined to be not significant under Executive Order 12866.

Paperwork Reduction Act:

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) which has received approval by OMB under control number 0625-0240. Notwithstanding any other provision of

the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Dated: May 5, 2005.

Joseph A. Spetrini

Acting Assistant Secretary for Import Administration.

■ For the reasons stated, 15 CFR. chapter III is amended to read as follows:

PART 335—IMPORTS OF WORSTED WOOL FABRIC

■ 1. The Authority citation for part 335 is revised to read as follows:

Authority: Title V of the Trade and Development Act of 2000 (Public Law No. 106-200) as amended by Trade Act of 2002 and the Miscellaneous Trade Act of 2004 (Public Law 108-429), Presidential Proclamation No. 7383 (December 1, 2000).

■ 2. §335.1 is revised to read as follows:

§335.1 Purpose.

This part sets forth regulations regarding the issuance and effect of licenses for the allocation of Worsted Wool Fabric under the TRQs established by Section 501 of the Act, including the new HTS categories 9902.51.15 and 9902.51.16 added by the amended Act.

■ 3. §335.2 is amended by revising the definition of “Tariff Rate Quota or Quotas” to read as follows:

§335.2 Definitions.

* * * * *

Tariff Rate Quota or Quotas means the temporary duty reduction provided under Section 501 of the Act for limited quantities of fabrics of worsted wool with average diameters greater than 18.5 micron, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (HTS heading 9902.51.11), and for limited quantities of fabrics of worsted wool with average diameters of 18.5 microns or less, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers for the benefit of persons (including firms, corporations, or other legal entities) who cut and sew men's and boy's wool suits, suit-type jackets and trousers in the United States (HTS heading 9902.51.15), and worsted wool fabric with average fiber diameters of 18.5 microns or less for the benefit of persons (including firms, corporations, or other legal entities) who weave worsted wool fabric in the United States (HTS 9902.51.16).

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■ 4. §335.3 is amended by removing paragraph (d)(3), redesignating paragraphs (d)(4) and (d)(5) as (d)(3) and (d)(4) respectively, and by revising paragraphs (c) and (d)(2) as follows:

§335.3 Applications to receive allocations.

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(c) For applying for TRQs 9902.51.11 or 9902.51.15 during the calendar year of the date of the application, an applicant must have cut and sewed in the United States all three of the following apparel products: Worsted Wool Suits, Worsted Wool Suit-Type Jackets, and Worsted Wool Trousers. The applicant may either have cut and sewn these products on its own behalf or had another person cut and sew the products on the applicant's behalf, provided the applicant owned the fabric at the time it was cut and sewn. The application must contain a statement to this effect. For applying for TRQ 9902.51.16 during the calendar year of the date of the application, an applicant must have woven in the United States worsted wool fabrics with average fiber diameters of 18.5 microns or less, suitable for use in making suits, suit-type jackets, and trousers. The application must contain a statement to this effect.

(d) * * *

(2)(i) *Production.* Applicants for TRQs 9902.51.11 and 9902.51.15 must provide the name and address of each plant or location where Worsted Wool Suits, Worsted Wool Suit-Type Jackets, and Worsted Wool Trousers were cut and sewn or woven by the applicant and the name and address of all plants or locations that cut and sewed such products on behalf of the applicant. Production data, including the following: the quantity and value of the Worsted Wool Suits, Worsted Wool Suit-Type Jackets, and Worsted Wool Trousers cut and sewn in the United States by applicant, or on behalf of applicant, from fabric owned by applicant. This data must indicate actual production (not estimates) of Worsted Wool Suits, Worsted Wool Suit-Type Jackets and Worsted Wool Trousers containing at least 85 percent worsted wool fabric by weight with an average diameter of 18.5 microns or less. This data must also indicate actual production (not estimates) of Worsted Wool Suits, Worsted Wool Suit-Type Jackets and Worsted Wool Trousers containing at least 85 percent worsted wool fabric by weight with average diameter greater than 18.5 microns. Production data must be provided for the first six months of the year of the application. This data will be

annualized for the purpose of making Tariff Rate Quota allocations.

(ii) Applicants for TRQ 9902.51.16 must provide the name and address of each plant or location where Worsted Wool Fabric was woven by the applicant. The quantity and value of the Worsted Wool Fabric woven in the United States by applicant. This data must indicate actual production (not estimates) of Worsted Wool Fabric containing at least 85 percent worsted wool fabric by weight with an average diameter of 18.5 microns or less. For applications for the 2005 Tariff Rate Quota year, production data must be provided for full calendar year 2004. For allocations of Tariff Rate Quota years after 2005, production data must be provided for the first six months of the year of the application. This data will be annualized for the purpose of making Tariff Rate Quota allocations.

* * * * *

■ 5. Section 335.4 is amended by revising paragraphs (a) and (b) as follows:

§335.4 Allocation.

(a) For HTS 9902.51.11 and HTS 9902.51.15 each Tariff Rate Quota will be allocated separately. Allocation will be based on an applicant's Worsted Wool Suit production, on a weighted average basis, and the proportion of imported Worsted Wool Fabric consumed in the production of Worsted Wool Suits. In regards to HTS 9902.51.16 the Tariff Rate Quota will be allocated based on an applicant's Worsted Wool Fabric production, on a weighted average basis.

(b) For the purpose of calculating allocations for HTS 9902.51.11 and HTS 9902.51.15 only, Worsted Wool Suit production will be increased by the percentage of imported fabric consumed in the production of Worsted Wool Suits to total fabric consumed in this production. For example, if an applicant uses 30 percent imported fabric in the production of Worsted Wool Suits, that applicant's production level will be increased by 30 percent.

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■ 6. Section 335.6 is amended by revising paragraph (e) as follows:

§335.6 Surrender, reallocation and license utilization requirement.

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(e) A Licensee whose unused allocation in a Tariff Rate Quota Year exceeds five percent of the quantity set forth in its license shall be subject to having its allocation reduced in the subsequent Tariff Rate Quota Year. The subsequent Tariff Rate Quota Year

allocation will be reduced from the quantity such Licensee would otherwise have received by a quantity equal to 25 percent of its unused allocation from the prior year. A Licensee whose unused allocation in two or more consecutive Tariff Rate Quota Years exceeds five percent of the quantity set forth in its license shall have its allocation reduced in the subsequent Tariff Rate Quota Year by a quantity equal to 50 percent of its unused allocation from the prior year.

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§ 335.7 [Removed]

■ 7. Remove section 355.7.

PART 340—MODIFICATION OF THE TARIFF RATE QUOTA LIMITATION ON WORSTED WOOL FABRIC IMPORTS. [Removed]

■ 8. Remove entire part 340.

[FR Doc.05-9494 Filed 5-13-05; 8:45 am]

BILLING CODE 3510-DSS

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD11-05-004]

RIN 1625-AA08

Special Local Regulation; KFOG “KaBoom” Fireworks Display, San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations in the navigable waters of San Francisco Bay for the loading, transport, and launching of fireworks used during the KFOG “KaBoom” Fireworks Display to be held on May 21, 2005. These special local regulations are 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 9 a.m. on May 19, 2005, to 10 p.m. on May 21, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD-11 05-004] and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Trevor Parra, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437-5873.

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, special local regulations are 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**. Because of the dangers posed by the pyrotechnics used in this fireworks display it is necessary to make it effective as soon as possible.

Background and Purpose

The San Francisco Radio Station KFOG is sponsoring a brief fireworks display on May 21, 2005 in the waters of San Francisco Bay near Pier 30. The fireworks display is meant for entertainment purposes in support of KFOG’s annual festival in San Francisco. These special local regulations are being issued to establish a temporary regulated area in San Francisco Bay around the fireworks launch barge during the loading of the pyrotechnics, during the transit of the barge to the display location, and during the fireworks display. This regulated 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.

Discussion of Rule

The Coast Guard is establishing temporary special local regulations on specified waters off of the San Francisco waterfront. 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 special local regulations will apply to the navigable waters around and under the fireworks barge within a radius of

100 feet. During the 20-minute fireworks display, the area to which these special local regulations apply 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 9 a.m. on May 19, 2005, 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 on May 21, 2005. During the fireworks display, scheduled to commence at 9 p.m. on May 21, 2005, the fireworks barge will be located approximately 1,000 feet off of Pier 30 in position 37°47.35’ N, 122°22.86’ W.

The effect of the temporary special local regulations will be to restrict general navigation in the vicinity of the fireworks barge from the time 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 regulated 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.

Pursuant to 33 U.S.C. 1236, persons violating these special local regulations may be liable as follows: Suspension or revocation of the license of a licensed officer for incompetence or misconduct; civil penalty of \$6,500 for any person in charge of the navigation of a vessel other than a licensed officer; civil penalty of \$6,500 for the owner of a vessel (including any corporate officer of a corporation owning the vessel) who is actually on board; and \$2,750 for any other person.

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. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

The entities most likely to be affected are pleasure craft engaged in recreational activities. 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