

Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management

systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded, under the Instruction, that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(g), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule because it concerns an emergency situation of less than 1 week in duration.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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; 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. A new temporary § 165.T07–0433 is added to read as follows:

#### § 165–T07–0433 Safety Zone, 2008 Personal Watercraft Challenge, Atlantic Ocean, Fort Lauderdale, Florida.

(a) *Regulated areas.* Temporary safety zone for the 2008 Personal Watercraft Challenge in the Atlantic Ocean offshore in an area from Fort Lauderdale, Florida north to Hillsboro Inlet, Florida. The Coast Guard is establishing a temporary safety zone in and on the waters of the Atlantic Ocean. This safety zone includes all waters from the surface to the bottom, encompassed by an imaginary line connecting the following points: 26°15'09" N, 080°04'57.78" W,

thence to 26°15'08.70" N, 080°04'47.82" W, thence to 26°06'20.88" N, 080°06'01.50" W, thence to 26°06'20.76" N, 080°06'11.40" W, thence returning to origin.

(b) *Definitions.* The following definitions apply to this section:

*Designated representative* means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the Captain of the Port (COTP), Miami, Florida in the enforcement of regulated navigation areas, safety zones, and security zones.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, no person or vessel may anchor, moor or transit a safety zone without permission of the Captain of the Port Miami, Florida or a designated representative. To request permission to enter into a safety zone, the Captain of the Port's designated representative may be contacted on VHF channel 16.

(2) At the completion of scheduled event, and departure of participants from the regulated area, the Coast Guard Patrol Commander may permit traffic to resume normal operations.

(d) *Effective Period.* This temporary safety zone will be effective between the hours of 8 a.m. and 11 a.m., Saturday, August 16, 2008.

Dated: July 15, 2008.

**J.O. Fitton,**

*Captain, U.S. Coast Guard, Captain of the Port Miami, FL.*

[FR Doc. E8–18079 Filed 8–5–08; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2008–0349]

RIN 1625–AA00

#### Safety Zone; Fireworks, Beverly, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is creating a temporary safety zone for a fireworks event being held in Beverly, Massachusetts. This safety zone will last for the limited duration of the fireworks. The zone is necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays.

**DATES:** This rule is effective from 9 p.m. through 11 p.m. on August 10, 2008.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-0349 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the U.S. Coast Guard Sector Boston, 427 Commercial St., Boston, MA 02109 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Chief Petty Officer Eldridge McFadden at 617-223-5160. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

#### **Regulatory Information**

On June 4, 2008, we published a notice of proposed rulemaking (NPRM) entitled Safety Zones; Fireworks, Central and Northern Massachusetts in the **Federal Register** (73 FR 31785). 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**. This rule must be in effect on August 10, 2008, in order to protect the public from the dangers associated with fireworks displays. Any delay in the regulation's effective date could expose the public to unnecessary danger and therefore be contrary to the public's interest.

#### **Background and Purpose**

A Notice of Proposed Rulemaking was published on June 4, 2008 (73 FR 31785), proposing the establishment of six safety zones around various fireworks displays on or near navigable waterways in Massachusetts this summer. At this time, five of those events have already occurred. This temporary rule establishes a safety zone surrounding the remaining fireworks event as described in the NPRM. The zone will protect the maritime public from the dangers inherent in waterborne fireworks displays. The Captain of the

Port does not anticipate any negative impact on vessel traffic due to implementation of these temporary safety zones. Public notifications will be made prior to the effective period of the zone via Broadcast and Local Notice to Mariners.

#### **Discussion of Comments and Changes**

No comments were made. However, the following changes were made to the original regulatory text proposed by the Notice of Proposed Rulemaking published on June 4, 2008 (73 FR 31785): Items (a)(2) through (a)(6) were removed as the events have occurred.

#### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### **Regulatory Planning and Review**

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

No comments were made. However, the following changes were made to the original regulatory text proposed by the Notice of Proposed Rulemaking published on June 4, 2008 (73 FR 31785): Items (a)(2) through (a)(6) were removed as the events have occurred.

#### **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 would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the affected portion of the coastal waterways of Massachusetts between 9 p.m. and 11 p.m. on August 10, 2008.

This safety zone will 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 two hours, vessel traffic can navigate around the safety zone during the effective period, and advance notification via broadcast notice to mariners and Local Notice to Mariners will be made before and during the effective period.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### **Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### **Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

No comments were made. However, the following changes were made to the original regulatory text proposed by the Notice of Proposed Rulemaking published on June 4, 2008 (73 FR 31785): Items (a)(2) through (a)(6) were removed as the events have occurred.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions

that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble. No comments were made. However, the following changes were made to the original regulatory text proposed by the Notice of Proposed Rulemaking published on June 4, 2008 (73 FR 31785): Items (a)(2) through (a)(6) were removed as the events have occurred.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. No comments were made. However, the following changes were made to the original regulatory text proposed by the Notice of Proposed Rulemaking published on June 4, 2008 (73 FR 31785): Items (a)(2) through (a)(6) were removed as the events have occurred.

#### 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. No comments were made. However, the following changes were made to the original regulatory text proposed by the Notice of Proposed Rulemaking published on June 4, 2008 (73 FR 31785): Items (a)(2) through (a)(6) were removed as the events have occurred.

#### 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. No comments were made. However, the following changes were made to the original regulatory text proposed by the Notice of Proposed Rulemaking published on June 4, 2008 (73 FR 31785): Items (a)(2) through (a)(6) were removed as the events have occurred.

#### 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. No comments were made. However, the following changes were made to the original regulatory text proposed by the Notice of Proposed Rulemaking published on June 4, 2008 (73 FR 31785): Items (a)(2) through (a)(6) were removed as the events have occurred.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded, under the instruction, that there are no factors in this case that would limit the use of a

categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

A final environmental analysis checklist and a final categorical exclusion determination will be 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, and 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(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.T01–0349 to read as follows:

#### § 165.T01–0349 Safety Zone; Fireworks, Beverly, MA.

(a) *Location.* The following waterborne fireworks events include safety zones as described herein: (1) *Beverly Homecoming Fireworks Event, Beverly, MA.*

(i) All waters of Beverly Harbor, from surface to bottom, within a 200-yard radius of the fireworks barge located at approximate position 42°32'37" N, 070°52'09" W. These coordinates are based upon NAD83 datum.

(ii) *Effective Date.* This rule will be effective from 9 p.m. through 11 p.m. on August 10, 2008.

(b) *Definition:* As used in this section, designated representative means any Coast Guard commissioned, warrant, or petty officer, or any Federal, State, or local law enforcement officer authorized to enforce this regulation on behalf of the Coast Guard Captain of the Port (COTP).

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or remaining in the safety zones described in paragraph (a) of this section is prohibited unless authorized by the Coast Guard Captain of the Port (COTP) Boston, or the COTP's designated representative.

(2) Persons desiring to transit within the safety zones established in this section may contact the Captain of the

Port at telephone number 617-223-3008 or via on-scene patrol personnel on VHF channel 16 to seek permission to do so. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: July 24, 2008.

**Claudia C. Gelzer,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Boston, Massachusetts.*

[FR Doc. E8-18076 Filed 8-5-08; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 174

[EPA-HQ-OPP-2007-0830; FRL-8374-2]

#### **Bacillus thuringiensis Vip3Aa Proteins in Corn and Cotton; Exemption from the Requirement of a Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of the *Bacillus thuringiensis* Vip3Aa proteins in or on the food and feed commodities of corn; corn, field; corn, sweet; corn, pop; and cotton; cotton, undelinted seed; cotton, refined oil; cotton, meal; cotton, hay; cotton, hulls; cotton, forage; and cotton, gin byproducts, when used as plant-incorporated protectants in those food and feed commodities. Syngenta Seeds, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus thuringiensis* Vip3Aa proteins in or on corn; corn, field; corn, sweet; corn, pop; and cotton, undelinted seed; cotton, refined oil; cotton, meal; cotton, hay; cotton, hulls; cotton, forage; and cotton, gin byproducts, when applied or used as plant-incorporated protectants.

**DATES:** This regulation is effective August 6, 2008. Objections and requests for hearings must be received on or before October 6, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-

OPP-2007-0830. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Alan Reynolds, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 605-0515; e-mail address: [reynolds.alan@epa.gov](mailto:reynolds.alan@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

###### *A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any

questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### *B. How Can I Access Electronic Copies of this Document?*

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this "**Federal Register**" document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

###### *C. Can I File an Objection or Hearing Request?*

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2007-0830 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 6, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2007-0830, by one of the following methods.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's