

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 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. An “Environmental Analysis Check List” 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 Subpart C 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 temporary § 165.T05–035, to read as follows:

#### § 165.T05–035 Security Zone: Wallops Island, Virginia.

(a) *Location*. The following area is a safety zone: All navigable waters from 37°–48′–30″N/075°–31′–58″W on Northam Narrows to 37°–51′–30″N/075°–28′–36″W on Cat Creek, thence to a point following the Virginia coastal and inland shoreline to a point on the northeast tip of Wallops Island at 37°–53′–03″N/075°–25′–05″W, thence easterly to a point on the southwest tip

of Assateague Island at 37°–52′–28″N/075°–24′–20″W, thence along the shoreline to a point on the southeast side of Assateague Island at 37°–51′–32″N/075°–22′–01″W, thence easterly to a point on the United States territorial seas boundary line at 37°–47′–30″N/075°–09′–55″W. The regulated area will continue in a southerly direction along the United States territorial seas boundary line to a point at 37°–40′–56″N/075°–21′–12″W, thence westerly to a point on Assawoman Island at 37°–47′–11″N/075°–31′–34″W, thence back again to the point of origin in the Captain of the Port, Hampton Roads, Virginia zone as defined in 33 CFR 3.25–10.

(b) *Definition*. As used in this section *Captain of the Port Representative*: Any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulations*. (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads and the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia can be contacted at telephone number (757) 668–5555 or (757) 484–8192.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM 13 and 16.

(d) *Effective Date*. This regulation is effective from 2 a.m. on April 21, 2007 until 5 a.m. on April 24, 2007.

Dated: April 4, 2007.

**Patrick B. Trapp,**

*Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.*

[FR Doc. E7–7183 Filed 4–13–07; 8:45 am]

**BILLING CODE 4910–15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01–07–33]

RIN 1625–AA00

#### Safety Zone; South Portland, ME, Gulf Blasting Project

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is reinstating the temporary safety zone around the blasting and dredging project near the Gulf Oil Terminal Berth in South Portland, Maine and around the M/V RELIANCE. These safety zones are needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with this blasting and dredging project, which is being undertaken to increase the water depth of the Gulf Oil Terminal Berth to 41 feet. Entry into this safety zone is prohibited unless authorized by the Captain of the Port, Northern New England.

**DATES:** This rule is effective from 8 a.m. Eastern Daylight Time (EDT) April 2, 2007 until 11:59 p.m. Eastern Daylight Time (EDT) on April 15, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01–07–012 and are available for inspection or copying at U.S. Coast Guard Sector Northern New England, 259 High Street, South Portland, ME 04106 between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG Jarrett Bleacher, at (207) 741–5421.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On February 20, 2007, we enacted a Temporary Final Rule (TFR) entitled “Safety Zone; South Portland, Maine, Gulf Blasting Project”. (72 FR 10360, March 8, 2007) The original effective period for this rule was from 7 a.m. Eastern Standard Time (EST) on February 20, 2007 until 4 p.m. Eastern Daylight Time (EDT) on March 31, 2007. In order to maintain the protection of persons, facilities, vessels and others in the maritime community from the safety hazards associated with this blasting and dredging project, as the blasting contractor has informed the Coast Guard that operations will not be completed within the scheduled timeframe, we find it necessary to reissue a temporary regulation establishing a safety zone

around the South Portland Maine, Gulf blasting project.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM because any delay encountered with this regulation would be contrary to public safety since the safety zone is needed to provide for the safety of life on navigable waters and to prevent traffic from transiting within the waters effected by this blasting and dredging project. The details of this project's continuation were not provided to the Coast Guard until March 22, 2007 making it impossible to publish a NPRM or a final rule 30 days in advance.

Similarly, 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 this rule would be contrary to the public interest since continued action is necessary to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with the handling, detonation, and transportation of explosives.

#### **Background and Purpose**

The explosives loading and blasting operations will continue to occur at various times during the period between March 31, 2007 and April 15, 2007. The blasting plan calls for the drilling, blasting, and dredging of various areas within the berthing area of the Gulf Oil Terminal in South Portland, Maine. The explosives loading will occur at East End Beach at the Eastern Promenade, Portland, Maine, or at the municipal boat ramp at Bug Light Park, South Portland, Maine. The explosives will be transported via truck aboard M/V RELIANCE to the Gulf Oil Terminal in South Portland where the blasting and dredging project will be conducted. This regulation establishes a moving safety zone in all waters of the Fore River and Casco Bay in a 100-yard radius around the M/V RELIANCE as it transits from the East End Beach or Bug Light Park to the Gulf Facility and from the Gulf Facility back to the East End Beach or Bug Light Park. It also establishes a 100-yard safety zone around the perimeter of the affected portion of the berthing area of the Gulf Oil Terminal while blasting operations are being conducted. This area is defined as all of the waters enclosed by a line starting from a point located at the western side of the Gulf Oil Terminal Dock at latitude 43°39'12.537" N, longitude 70°14'25.923" W; thence to latitude 43°39'10.082" N, longitude

70°14'26.287" W; thence to latitude 43°39'10.209" N, longitude 70°14'27.910" W; thence to latitude 43°39'12.664" N, longitude 70°14'27.546" W; thence to the point of beginning. (DATUM: NAD 83). These safety zones are required to protect the maritime community from the hazards associated with the loading, detonation, and transportation of explosives. Entry into this zone will be prohibited unless authorized by the Captain of the Port.

#### **Discussion of Rule**

This rule continues to provide for the safety of vessel traffic and the maritime public from the hazards associated with blasting operations on the designated waters in the Fore River. This TFR reinstates a temporary safety zone around the blasting and dredging project near the Gulf Oil Terminal Berth in South Portland.

This document restricts vessel traffic in various portions of the Fore River and Casco Bay while the M/V RELIANCE is in transit and around the perimeter of the affected portion of the Gulf Oil Terminal when blasting operations are taking place. Although the safety zone being reinstated will be in effect for two weeks, as before, it will only be enforced during actual transit and blasting times. Entry into those zones by any vessel is prohibited unless specifically authorized by the Captain of the Port, Northern New England.

The Captain of the Port anticipates negligible negative impact on vessel traffic from this temporary safety zone as it will be in effect only during transit and blasting operations. Blasting operations are anticipated to occur only two to three times per week between the hours of 7 a.m. and 4 p.m. The moving safety zone around the M/V RELIANCE will be enforced only during the transit of explosives to the site and from the site back to shore with unused explosives. The zone around the perimeter of the work site extends only minimally into the channel and will not affect vessels transiting in or out of the port. The zone around the worksite will be enforced only during the actual blasting times. The enhanced safety to life and property provided by this rule greatly outweighs any potential negative impacts. Public notifications will be made during the entire effective period of this safety zone via marine information broadcasts.

#### **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. The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. The effect of this rule will not be significant for the following reasons: The safety zone will be enforced only during the transit of the M/V RELIANCE and during blasting operations. There is adequate room in the channel for vessels to transit during the blasting operations. Vessels will be permitted to transit and navigate in the effected waters when no blasting is taking place, minimizing any adverse impact. Additionally, extensive maritime advisories will be broadcast during the duration of the effective period.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit in the safety zone during this demolition event. However, this rule will not have a significant economic impact on a substantial number of small entities due to the minimal time that vessels will be restricted from the area, the ample space available for vessels to maneuver and navigate around the zone, and advance notifications will be made to the local community by marine information broadcasts.

#### **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 process. If this rule will affect your small business, organization or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LTJG Jarrett Bleacher at (207) 741–5421,

Sector Northern New England, Waterways Management Division.

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 police or action of the Coast Guard.

### Collection of Information

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

### Federalism

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

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not 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 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,

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.

This rule fits the category selected from paragraph (34)(g), as it establishes a safety zone. A final "Environmental Analysis Check List" 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, 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. 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 temporary § 165.T01-012 to read as follows:

#### § 165.T01-012 Safety Zone: Gulf Oil Terminal Dredging Project, South Portland, ME.

(a) *Location.* The following area is a safety zone: All waters of the Fore River and Casco Bay in a 100 yard radius around the M/V RELIANCE as it transits from the East End Beach or Bug Light Park to the Gulf Oil Terminal Facility and from the Gulf Oil Terminal Facility back to the East End Beach or Bug Light Park, while transporting explosives; and, all waters in a 100 yard radius around the perimeter of the berthing area of the Gulf Oil Terminal while blasting operations are being conducted. This area is defined as: All of the waters enclosed by a line starting from a point located at the western side of the Gulf Oil Terminal Dock at longitude 43°39'12.537" N, longitude 70°14'25.923" W; thence to latitude 43°39'10.082" N, longitude 70°14'26.287" W; thence to latitude 43°39'10.209" N, longitude 70°14'27.910" W; thence to latitude 43°39'12.664" N, longitude

70°14'27.546" W; thence to the point of beginning. (DATUM: NAD 83). All vessels are restricted from entering this area.

(b) *Effective Date.* This section is effective 8 a.m. April 2, 2007 until 11:59 p.m. on April 15, 2007.

(c) *Definitions.* (1) *Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP).

(2) [Reserved]

(d) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the COTP, Northern New England or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone may contact the COTP or the COTP's designated representative at telephone number 207-767-0303 or on VHF Channel 13 (156.7 MHz) or VHF channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, all persons and vessels must comply with the instructions given to them by the COTP or the COTP's designated representative.

Dated: April 2, 2007.

**S.P. Garrity,**

*Captain, U.S. Coast Guard, Captain of the Port, Northern New England.*

[FR Doc. E7-7187 Filed 4-13-07; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Parts 1 and 41

[Docket No.: PTO-P-2005-0016]

RIN 0651-AB77

#### Revisions and Technical Corrections Affecting Requirements for *Ex Parte* and *Inter Partes* Reexamination

**AGENCY:** United States Patent and Trademark Office, Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (Office) is revising the rules of practice relating to *ex parte* and *inter partes* reexamination. The Office is

designating the correspondence address for the patent as the correct address for all communications for patent owners in an *ex parte* reexamination or an *inter partes* reexamination, and simplifying the filing of reexamination papers by providing for the use of a single "mail stop" address for the filing of substantially all *ex parte* reexamination papers (such is already the case for *inter partes* reexamination papers). The Office is revising the rules to prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination proceeding without a showing of sufficient cause. Finally, the Office is making miscellaneous clarifying changes as to terminology and applicability of the reexamination rules. The Office is not implementing its proposal (that was set forth in the proposed rule making) to newly provide for a patent owner reply to a request for reexamination, prior to the Office's decision on the request.

**DATES:** *Effective Date:* May 16, 2007.

*Applicability Date:* The changes in this final rule apply to any reexamination proceeding (*ex parte* or *inter partes*) which is pending before the Office as of May 16, 2007 and to any reexamination proceeding which is filed after that date.

**FOR FURTHER INFORMATION CONTACT:** By telephone—Kenneth M. Schor, Senior Legal Advisor at (571) 272-7710; by mail addressed to U.S. Patent and Trademark Office, Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Kenneth M. Schor; by facsimile transmission to (571) 273-7710 marked to the attention of Kenneth M. Schor; or by electronic mail message (e-mail) over the Internet addressed to [kenneth.schor@uspto.gov](mailto:kenneth.schor@uspto.gov).

**SUPPLEMENTARY INFORMATION:** The Office is revising the rules of practice relating to *ex parte* and *inter partes* reexamination as follows:

I: Designating the correspondence address for the patent as the correct address for all notices, official letters, and other communications for patent owners in an *ex parte* reexamination or an *inter partes* reexamination. Also, simplifying the filing of reexamination papers by providing for the use of "Mail Stop *Ex Parte* Reexam" for the filing of all *ex parte* reexamination papers (not just *ex parte* reexamination requests), other than certain correspondence to the Office of the General Counsel.

II: Prohibiting supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of sufficient cause.

III: Making miscellaneous clarifying changes as to the terminology and applicability of the reexamination rules, and correcting inadvertent errors in the text of certain reexamination rules.

### I. Reexamination Correspondence

*Subpart 1—The Patent Owner's Address of Record:* Section 1.33(c) has been revised to designate the correspondence address for the patent to be reexamined, or being reexamined, as the correct address for all notices, official letters, and other communications for patent owners in reexamination proceedings. Prior to this revision to § 1.33(c), all notices, official letters, and other communications for patent owners in a reexamination proceeding had been directed to the attorney or agent of record in the patent file at the address listed on the register of patent attorneys and agents maintained by the Office of Enrollment and Discipline (OED) pursuant to § 11.5 and § 11.11 (hereinafter, the "attorney or agent of record register address").

The correspondence address for any pending reexamination proceeding not having the same correspondence address as that of the patent is, by way of this revision to § 1.33(c), automatically changed to that of the patent file—as of the effective date of this Notice. For any such proceeding, it is strongly encouraged that the patent owner affirmatively file a Notification of Change of Correspondence Address in the reexamination proceeding and/or the patent to conform the address of the proceeding with that of the patent and to clarify the record as to which address should be used for correspondence. While the correspondence address change for the reexamination proceeding is automatically effected (by rule) even if the patent owner notification is not filed, such a patent owner notification clarifies the record, and addresses the possibility that, absent such a patent owner notification, correspondence may inadvertently be mailed to an incorrect address, causing a delay in the prosecution.

This revision to § 1.33(c) is based on the following: (1) Prior to the revision, the Office had received reexamination filings where the request had been served on the patent owner at the correspondence address under § 1.33(a) that was the correct address for the patent, rather than at the attorney or agent of record register address that was the previously prescribed (prior to the present rule revision) correspondence address in § 1.33(c) for use in reexamination. This occurred because the § 1.33(a) address was, and is, the address used for correspondence during