

Dated: May 6, 2005.

Michele M. Leonhart,

Deputy Administrator.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01-05-041]

RIN 1625-AA00

Safety Zone; Beverly Homecoming Fireworks, Beverly, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the Beverly Homecoming Fireworks in Beverly, Massachusetts. This safety zone is necessary to protect the life and property of the maritime public from potential hazards associated with a fireworks display. The safety zone would temporarily prohibit entry into or movement within this portion of Beverly Harbor during the closure period.

DATES: Comments and related material must reach the Coast Guard on or before June 13, 2005.

ADDRESSES: You may mail comments and related material to Coast Guard Sector Boston, 427 Commercial Street, Boston, MA 02109. Sector Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket CGD01-05-041 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Paul English, Sector Boston, Waterways Safety and Response Division, at (617) 223-3010.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-05-041), indicate the specific section of this document to which each comment applies, and give the reason for each

comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

This rule proposes to establish a safety zone in Beverly Harbor within a 400-yard radius of the fireworks barge located at approximate position 42°32'35" N, 070°52'00" W. The safety zone would be in effect from 8 p.m. until 10:30 p.m. EDT on August 7, 2005.

The safety zone would temporarily restrict movement within the effected portion of Beverly Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the safety zone during the effective period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period of this proposed rule via safety marine information broadcasts and Local Notice to Mariners.

Discussion of Proposed Rule

The Coast Guard is establishing a temporary safety zone in Beverly Harbor, Beverly, Massachusetts. The safety zone would be in effect from 8 p.m. until 10:30 p.m. EDT on August 7, 2005. Marine traffic may transit safely outside of the safety zone in the majority of Beverly Harbor during the event. This safety zone will control vessel traffic during the fireworks display to protect the safety of the maritime public.

Due to the limited timeframe of the fireworks display and because the zone leaves the majority of Beverly Harbor open for navigation, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via Local Notice to Mariners and marine information broadcasts.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this rule will prevent traffic from transiting a portion of Beverly Harbor during the effective period, the effects of this rule will not be significant for several reasons: vessels will only be excluded from the proscribed area for two and one half hours, vessels will be able to operate in the majority of Beverly Harbor during this time, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed 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 effected portion of Beverly Harbor from 8 p.m. until 10:30 p.m. EDT on August 7, 2005.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: this proposed rule would be in effect for only two and one half hours, vessel traffic can safely pass around the safety zone during the effected period, and advance notifications will be made to the local maritime community by marine

information broadcasts and Local Notice to Mariners.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Chief Petty Officer Paul English 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.

Collection of Information

This proposed 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 proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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 proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTAA) (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 proposed 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, we believe that this rule is categorically excluded, under figure 2-1, paragraph (34)(g) of the Instruction, from further environmental documentation. A preliminary "Environmental Analysis Check List" is available in the docket where indicated under **ADDRESSES**. This rule fits the category selected from paragraph (34)(g), as it would establish a safety zone. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. From 8 p.m. until 10:30 p.m. on August 7, 2005, add temporary § 165.T01-041 to read as follows:

§ 165.T01-041 Safety Zone; Beverly Homecoming Fireworks, Beverly, Massachusetts.

(a) *Location.* The following area is a safety zone:

All waters of Beverly Harbor in a 400-yard radius of the fireworks barge located at approximate position 42°03'20" N, 070°05'20" W.

(b) *Effective date.* This section is effective from 8 p.m. until 10:30 p.m. EDT on August 7, 2005.

(c) *Regulations.*

(1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: May 3, 2005.

James L. McDonald,

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

[FR Doc. 05-9532 Filed 5-12-05; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD1-05-039]

RIN 1625-AA00

Safety Zone; Town of Marblehead Fourth of July Fireworks Display, Marblehead Harbor, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary safety zone for the Town of Marblehead Fourth of July Fireworks. This safety zone is necessary to protect the life and property of the maritime public from the potential hazards associated with a fireworks display. The safety zone would temporarily prohibit entry into or movement within this portion of Marblehead Harbor during the closure period.

DATES: Comments and related material must reach the Coast Guard on or before June 13, 2005.

ADDRESSES: You may mail comments and related material to Sector Boston 427 Commercial Street, Boston, MA. Sector Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket CGD01-05-

039 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Chief Petty Officer Paul English, Sector Boston, Waterways Management Division, at (617) 223-3010.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for the rulemaking (CGD01-05-039), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related materials in an unbound format, no larger than 8.5 by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

This rule proposes to establish a safety zone on the waters of Marblehead Harbor within a 400-yard radius of the fireworks barge located at approximate position 42°30'.548" N, 070°50'.098" W. The safety zone would be in effect from 8:30 p.m. until 10 p.m. on July 4, 2005. The rain date for the fireworks event is from 8:30 p.m. until 10 p.m. EDT on July 5, 2005.

The safety zone would temporarily restrict movement within this effected portion of Marblehead Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside the safety zone during the effective period. The Captain of the port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period of this proposed rule via safety marine information broadcasts and Local Notice to Mariners.

Discussion of Proposed Rule

The Coast Guard is establishing a temporary safety zone in Marblehead Harbor, Marblehead, Massachusetts. The safety zone would be in effect from 8:30 p.m. until 10 p.m. on July 4, 2005, with a Rain date of 8:30 p.m. until 10 p.m. EDT on July 5, 2005. Marine traffic may transit safely outside of the safety zone in the majority of Marblehead Harbor during the event. This safety zone will control vessel traffic during the fireworks display to protect the safety of the maritime public.

Due to the limited time frame of the firework display, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local media, local notice to mariners and marine information broadcasts.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this rule will prevent traffic from transiting a portion of Marblehead Harbor during the effective period, the effects of this rule will not be significant for several reasons: Vessels will be excluded from the proscribed area for only one and one half hours, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule