

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[CGD01-07-080]

RIN 1625-AA00

Safety Zone; Port Jefferson Fireworks, Long Island Sound, Port Jefferson, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Port Jefferson Fireworks on East Beach in Port Jefferson, NY. The safety zone is necessary to protect the life and property of the maritime community from the hazards posed by the fireworks display. Entry into or movement within this safety zone during the enforcement period is prohibited without approval of the Captain of the Port, Long Island Sound.

DATES: This rule is effective from 8 p.m. on July 4, 2007 until 11 p.m. on July 5, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD01-07-080 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant D. Miller, Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468-4596.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

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. The Coast Guard did not receive an Application for Approval of Marine Event for this event with sufficient time to implement an NPRM. A delay or cancellation of the fireworks display in order to accommodate a full notice and comment period would be contrary to the public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay encountered in this regulation's effective date would be impracticable and contrary to public interest since immediate action is

needed to prevent traffic from transiting a portion of Long Island Sound off East Beach, Port Jefferson, NY and to protect the maritime public from the hazards associated with this fireworks event.

The temporary zone should have minimal negative impact on the public and navigation because it will be enforced for a three hour period on only one of two specified days. In addition, the area closed by the safety zone is minimal, allowing vessels to transit around the zone in Long Island Sound off Port Jefferson, NY.

Background and Purpose

The Port Jefferson Fireworks display will take place on East Beach, Port Jefferson, NY from 8 p.m. to 11 p.m. on July 4, 2007. If the fireworks display is cancelled due to inclement weather on July 4, 2007, it will take place during the same hours on July 5, 2007. This safety zone is necessary to protect the life and property of the maritime public from the hazards posed by the fireworks display. It will protect the maritime public by prohibiting entry into or movement within this portion of Long Island Sound one hour prior to, during and one hour after the stated event.

Discussion of Rule

This regulation establishes a temporary safety zone on the navigable waters of Long Island Sound off East Beach, Port Jefferson, NY within a five hundred foot radius of the fireworks launch site located at approximate position 40°57'53.189" N, 073°03'9.72" W. The temporary safety zone will be outlined by temporary marker buoys installed by the event organizers.

This action is intended to prohibit vessel traffic in a portion of Long Island Sound off East Beach, Port Jefferson, NY to provide for the protection of life and property of the maritime public. The safety zone will be enforced from 8 p.m. until 11 p.m. on July 4, 2007. Alternatively, if the fireworks display is cancelled due to inclement weather on July 4, 2007, the zone will be enforced during the same hours on July 5, 2007. Marine traffic may transit safely outside of the safety zone during the event thereby allowing navigation of the rest of Long Island Sound except for the portion delineated by this rule.

The Captain of the Port anticipates minimal negative impact on vessel traffic due to this event because of the safety zone's small size and duration. Public notifications will be made prior to the effective period via local notice to mariners and 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.

This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: Vessels will only be excluded from the area of the safety zone for 3 hours; and vessels will be able to operate in other areas of Long Island Sound off Port Jefferson, NY during the enforcement period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will 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 or anchor in those portions of Long Island Sound off Port Jefferson, NY covered by the safety zone. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104-121], the Coast Guard wants to assist small entities in understanding this rule so that they can 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 the rule or any policy 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 will not concern 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 will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which 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 the 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

falls under the provisions of paragraph (34)(g) because the rule 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 and 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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.T01-080 to read as follows:

§ 165.T01-080 Safety Zone; Port Jefferson Fireworks, Port Jefferson, NY.

(a) *Location.* The following area is a safety zone: All navigable waters of Long Island Sound off of East Beach, Port Jefferson, NY, from surface to bottom, within a 500 foot radius of the fireworks launch site located in approximate position 40°57'53.189" N, 073°03'9.72" W.

(b) *Definitions.* The following definitions apply to this section: *Designated on-scene patrol personnel*, means any commissioned, warrant and petty officers of the U.S. Coast Guard operating Coast Guard vessels in the enforcement of this safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Long, Island Sound or his designated on-scene patrol personnel.

(3) All persons and vessels shall comply with the orders of the Coast Guard Captain of the Port or designated on-scene patrol personnel.

(4) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Persons and vessels may request permission to enter the zone on VHF-16 or via phone at (203) 468-4401.

(d) *Enforcement period.* This section will be enforced from 8 p.m. to 11 p.m. on Wednesday, July 4, 2007 and if the

fireworks display is postponed, it will be enforced from 8 p.m. to 11 p.m. on Thursday, July 5, 2007.

Dated: June 15, 2007.

D.A. Ronan,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. E7-12379 Filed 6-26-07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-07-038]

RIN 1625-AA00

Safety Zone; City of Syracuse Fireworks, Syracuse Inner Harbor, Syracuse, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Syracuse Inner Harbor, Syracuse, NY. This zone is intended to restrict vessels from a portion of the Syracuse Inner Harbor during the City of Syracuse Fireworks Celebration on June 29, 2007 Fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 9:30 p.m. to 10:30 p.m. on June 29, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09-07-038 and are available for inspection or copying at U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203 between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Tracy Wirth, U.S. Coast Guard Sector Buffalo; (716) 843-9573.

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. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), 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 of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Buffalo has determined that fireworks launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the City of Syracuse fireworks display. The fireworks display will occur between 9:30 p.m. and 10:30 p.m. on June 29, 2007.

The safety zone for the fireworks will encompass all waters of the Syracuse Inner Harbor and Onondaga Lake within a three hundred fifty foot radius of position 43°03'37" N, 076°09'59" W. [DATUM: NAD 83].

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

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.

This determination is based on the minimal time that vessels will be restricted from the safety zone and the safety zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the safety zone's activation.

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 will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of the Syracuse Harbor, Syracuse, NY between 9:30 p.m. and 10:30 p.m. on June 29, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only one hour. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding 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