

**§ 100.535 Susquehanna River, Port Deposit, Maryland.**

(a) *Regulated area.* A regulated area is established for the waters of the Susquehanna River, adjacent to Port Deposit, Maryland, from shoreline to shoreline, bounded on the south by the U.S. I-95 fixed highway bridge, and bounded on the north by a line running southwesterly from a point along the shoreline at latitude 39°36'22" N, longitude 076°07'08" W, thence to latitude 39°36'00" N, longitude 076°07'46" W. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all vessels participating in the "Ragin' on the River" power boat race under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(c) *Special local regulations.* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must: (i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(iii) All persons and vessels must comply with the instructions of the Official Patrol. The operator of a vessel in the regulated area shall stop the vessel immediately when instructed to do so by the Official Patrol and then proceed as directed. When authorized to transit the regulated area, all vessels shall proceed at a minimum safe speed necessary to maintain a safe course that minimizes wake near the race course.

(d) This section will be enforced annually from 10:30 a.m. to 6:30 p.m. on Saturday and Sunday of Labor Day weekend. If the races are postponed due to weather, then the special local regulations will be enforced during the same time period on Monday, Labor Day. A notice of enforcement of this section will be published annually in the **Federal Register** and disseminated through the Fifth District Local Notice

to Mariners and marine safety radio broadcasts.

Dated: July 17, 2006.

**S.H. Ratti,**

*Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.*

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

[CGD01-06-017]

**RIN 1625-AA00**

**Safety Zone; Beverly Homecoming Fireworks, Beverly, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Beverly Homecoming Fireworks Display on August 6, 2006 in Beverly, Massachusetts, temporarily closing all waters of Beverly Harbor within a four hundred (400) yard radius of the fireworks barge located at approximate position 42°33.35' N, 070°52.00' W. This zone is necessary to protect the maritime public from the potential hazards posed by a fireworks display. The safety zone temporarily prohibits entry into or movement within this portion of Beverly Harbor during its closure period. Entry into this zone is prohibited unless authorized by the Captain of the Port, Boston, Massachusetts.

**DATES:** This rule is effective from 8:30 p.m. until 10 p.m. on August 6, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01-06-017 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 Management Division, at (617) 223-5456.

**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 because the logistics with respect to the fireworks

presentation were not presented to the Coast Guard with sufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of Beverly Harbor during the fireworks display and to provide for the safety of life on navigable waters.

For the same reasons, the Coast Guard finds, under 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The zone should have a minimal negative impact on vessel transits in Beverly Harbor because vessels will be excluded from the area for only one and one half hours, and vessels can still operate in other areas of the harbor during the event.

**Background and Purpose**

The City of Beverly, Massachusetts is holding a fireworks display in honor of the Beverly Homecoming. This rule establishes a temporary safety zone on the waters of Beverly Harbor within a four hundred (400) yard radius of the fireworks barge located at approximate position 42°33.35' N, 070°52.00' W. This safety zone is necessary to protect the life and property of the maritime public from the potential dangers posed by this event. It will protect the public by prohibiting entry into or movement within the proscribed portion of Beverly Harbor during the fireworks display.

Marine traffic may transit safely outside of the 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 and during the effective period via safety marine information broadcasts and Local Notice to Mariners.

**Discussion of Rule**

This rule is effective from 8:30 p.m. until 10 p.m. on August 6, 2006. Marine traffic may transit safely outside of the safety zone in the majority of Beverly Harbor during the event. Given the limited time-frame of the effective period of the zone, the size of the harbor and the size of the zone itself, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to and during 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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this rule will prevent traffic from transiting a portion of Beverly Harbor during this event, the effect of this rule will not be significant for several reasons: vessels will be excluded from the area of the safety zone for only one and one half hours, although vessels will not be able to transit the harbor in the vicinity of the zone, they will be able to operate in other areas of the harbor during the effective period; 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 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 or operators of vessels intending to transit or anchor in a portion of Beverly Harbor from 8:30 p.m. until 10 p.m. on August 6, 2006. This safety zone will not have a significant economic impact on a substantial number of small entities for the reason described under the Regulatory Evaluation section.

### Assistance for Small Entities

Under subsection 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 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 call Chief Petty Officer Paul English, Sector Boston,

Waterways Management Division, at (617) 223–5456.

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).

### 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 affect 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 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. This rule fits the category selected from paragraph (34)(g), as it would establish 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. 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.T06–017 to read as follows:

#### § 165.T–01–017 Safety Zone: Beverly Homecoming Fireworks, Beverly, MA.

(a) *Location.* The following area is a safety zone: All waters of Beverly Harbor, from surface to bottom, within a four hundred (400) yard radius of the fireworks barge located at approximate position 42°33.35′ N, 070°52.00′ W.

(b) *Effective Date.* This rule is effective from 8:30 p.m. until 10 p.m. on August 6, 2006.

(c) *Definitions.* As used in this section *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).

(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 Captain of the Port (COTP), Boston 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 must contact the COTP or the COTP’s designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the COTP’s designated representative.

Dated: July 24, 2006.

**James L. McDonald,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD09–06–135]

RIN 1625–AA00

#### Safety Zone; Pentwater Homecoming Fireworks, Pentwater, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Pentwater Homecoming Fireworks, Pentwater, Michigan. This safety zone is necessary to safeguard vessels and spectators from hazards associated with fireworks displays. This rule is intended to restrict vessel traffic from a portion of Lake Michigan.

**DATES:** This safety zone is effective from 9 p.m. to 11 p.m. on August 12, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CGD09–06–135 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan between 7 a.m. (local) and 3:30 p.m. (local), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Warrant Officer Brad Hinken, U.S. Coast Guard Sector Lake Michigan, at (414) 747–7154.

#### 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 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. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

#### 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 Lake Michigan has determined 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 Pentwater Homecoming fireworks display. The fireworks display will occur between 9 p.m. and 11 p.m. on August 12, 2006.

The safety zone will encompass all waters of Lake Michigan within a 1000-foot radius of the fireworks launching site located on the north break wall in position 43°46.56′ N/086°26.38′ W (DATUM: NAD 83).

All persons and vessels must comply with the instructions of the Captain of the Port Lake Michigan or his designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on-scene representative. The Captain of the Port Lake Michigan 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