

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

[CGD01-06-067]

RIN 1625-AA00

Safety Zone; Lignelli Wedding Fireworks, Atlantic Ocean, Water Mill, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Lignelli Wedding Fireworks in the Atlantic Ocean off of 381 Dune Road, Water Mill, 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. to 10:10 p.m. on July 8, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD01-06-067 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 Junior Grade D. Miller, Assistant 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 until April 8, 2006, thereby making an NPRM impracticable and contrary to the public interest.

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**. 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 the Atlantic Ocean off of Water Mill, 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 is only effective for a 2 hour and 10 minute period and the area closed by the safety zone is minimal, allowing vessels to transit around the zone in the Atlantic Ocean off of Water Mill, NY.

Background and Purpose

The Lignelli Wedding Fireworks display will be taking place in the Atlantic Ocean off of Water Mill, NY from 8 p.m. to 10:10 p.m. on July 8, 2006. 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 the Atlantic Ocean one hour prior to, during and one hour after the stated event.

Discussion of Rule

This regulation establishes a temporary safety zone on the waters of the Atlantic Ocean, off of 381 Dune Road, Water Mill, NY within a 1200-foot radius of the fireworks barge located at approximate position 40°53'27.99" N, 072°19'14.10" 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 the Atlantic Ocean off of Water Mill, 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 10:10 p.m. on July 8, 2006. Marine traffic may transit safely outside of the safety zone during the event thereby allowing navigation of the rest of the Atlantic Ocean except for the portion delineated by this rule.

The Captain of the Port anticipates minimal negative impact on vessel traffic due to this event due to the limited area and duration covered by this safety zone. 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.

We expect the economic impact of this rule will be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. 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 2 hours and ten (10) minutes; and vessels will be able to operate in other areas of the Atlantic Ocean off of Water Mill, 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 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.

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 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. 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 Lieutenant Junior Grade D. Miller, Assistant Chief, Waterways

Management Division, Sector Long Island Sound, at (203) 468-4596.

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 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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), of the Instruction, from further environmental documentation.

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. 1225, 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.T01-067 to read as follows:

§ 165.T01-067 Safety Zone: Lignelli Wedding Fireworks, Atlantic Ocean, Water Mill, NY.

(a) *Location.* The following area is a safety zone: All waters of the Atlantic Ocean in a 1200-foot radius of a fireworks barge site located off of 381 Dune Road, Water Mill, NY at approximate position 40°53'27.99" N, 072°19'14.10" W. All coordinates are North American Datum 1983.

(b) *Enforcement period.* This section will be enforced from 8 p.m. to 10:10 p.m. on Saturday, July 8, 2006.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) 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.

(3) All persons and vessels shall comply with the Coast Guard Captain of the Port or designated on-scene patrol personnel. These personnel comprise commissioned, warrant and petty officers of the U.S. Coast Guard. 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.

Dated: June 22, 2006.

J.J. Plunkett,

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

[FR Doc. E6-10472 Filed 7-3-06; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 22, 24, and 64

[ET Docket No. 04-295; RM-10865; FCC 06-56]

Communications Assistance for Law Enforcement Act and Broadband Access and Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document addresses the assistance capabilities required, pursuant to section 103 of the Communications Assistance for Law Enforcement Act (CALEA) for facilities-based broadband Internet access providers and providers of interconnected Voice over Internet Protocol (VoIP). More generally, the *Second Report and Order and Memorandum Opinion and Order (Second R&O and MO&O)* specifies mechanisms to ensure that telecommunications carriers comply with CALEA. The *MO&O* denies in part and grants in part a petition for reconsideration and clarification filed by the United States Telecom Association (USTelecom) relating to the compliance date for broadband Internet access providers and providers of interconnected VoIP.

DATES: Effective August 4, 2006, except for §§ 1.20004 and 1.20005, which contain information collection requirements that have not been approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of these sections.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418-2452, e-mail: Rodney.Small@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order and Memorandum Opinion and Order*, ET Docket No. 04-295, FCC 06-56, adopted May 3, 2006, and released May 12, 2006. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference

Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 488-5300; fax (202) 488-5563; e-mail at FCC@BCPIWEB.COM.

Summary of the Second Report and Order and Memorandum Opinion and Order

Overview

1. Telecommunications industry standard-setting bodies, working in concert with law enforcement agencies (LEAs) and other interested parties, are developing technical requirements and solutions for facilities-based broadband Internet access providers and providers of interconnected VoIP. We conclude that, absent the filing of a deficiency petition under CALEA section 107(b), it would be premature for the FCC to intervene in the standards development process. Additionally, we permit all carriers providing facilities-based broadband Internet access and interconnected VoIP services until May 14, 2007 to come into compliance with CALEA. Further, we require that all carriers providing facilities-based broadband Internet access and interconnected VoIP service to submit interim reports to the Commission to ensure that they will be CALEA-compliant by May 14, 2007. We also require that all facilities-based broadband Internet access and interconnected VoIP providers to whom CALEA obligations were extended in the *First Report and Order (First R&O)* in this proceeding come into compliance with the system security requirements in our rules within 90 days of the effective date of this *Second R&O*.

2. More generally, we specify mechanisms to ensure that telecommunications carriers comply with CALEA. Specifically, under the express terms of the statute, all carriers subject to CALEA are obliged to become CALEA-compliant. We find that sections 107(c) and 109(b) of CALEA provide only limited and temporary relief from compliance requirements, and that they are complementary provisions that serve different purposes, which are, respectively: (1) Extension of the CALEA section 103 compliance deadline for equipment, facility, or service deployed before October 25, 1998; and (2) recovery of CALEA-imposed costs. We also conclude that, in addition to the enforcement remedies

through the courts available to LEAs under CALEA section 108, we may take separate enforcement action against carriers that fail to comply with CALEA. Moreover, we conclude that carriers are generally responsible for CALEA development and implementation costs for post-January 1, 1995 equipment and facilities.

Background

3. In March 2004, the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), and the Drug Enforcement Administration (DEA) (collectively, Law Enforcement) filed with the Commission a petition for expedited rulemaking, requesting that we initiate a proceeding to resolve various outstanding issues associated with the implementation of CALEA. We responded in August 2004 by issuing a *Notice of Proposed Rulemaking (NPRM)* (69 FR 56976, September 23, 2004) and *Declaratory Ruling* in this proceeding. The *NPRM* examined issues relating to the scope of CALEA's applicability to packet-mode services, such as broadband Internet access, and implementation and enforcement issues.

4. In September 2005, the *First R&O* (70 FR 59664, October 13, 2005) concluded that CALEA applies to facilities-based broadband Internet access providers and providers of interconnected VoIP service, and the concurrent *Further Notice of Proposed Rulemaking* (70 FR 59704, October 13, 2005) sought comment on whether CALEA obligations should be extended to providers of other types of VoIP services and on whether something less than full CALEA compliance should be required of certain classes or categories of facilities-based broadband Internet access providers. The *First R&O* stated: "In the coming months, we will release another order that will address separate questions regarding the assistance capabilities required of the providers covered by today's Order pursuant to section 103 of CALEA. This subsequent order will include other important issues under CALEA, such as compliance extensions and exemptions, cost recovery, identification of future services and entities subject to CALEA, and enforcement." The *Second R&O* addresses these questions and issues and specifies what telecommunications providers must do to facilitate electronic surveillance of their equipment, facilities, and services by LEAs, pursuant to court orders or other lawful authorization.

5. In this *Second R&O*, we first examine the obligations of facilities-based broadband Internet access and interconnected VoIP providers to