

**DEPARTMENT OF HOMELAND SECURITY****COAST GUARD****33 CFR PART 165**

[CGD09-03-249]

RIN 1625-AA00

**Safety Zone; Grundy County Corn Festival, Morris, IL**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Grundy County Corn Festival. The safety zone is necessary to protect vessels and spectators from potential airborne hazards during a planned fireworks display over a portion of the Illinois River. This safety zone is intended to restrict vessels from a portion of the Illinois River in Morris, IL.

**DATES:** This temporary final rule is effective from 8:30 p.m. until 9 p.m. (local) on September 27, 2003.

**ADDRESSES:** 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 [CDG09-03-249] and are available for inspection or copying at Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois 60527, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** MST2 Kenneth Brockhouse, U.S. Coast Guard Marine Safety Office Chicago, at (630) 986-2155.

**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. 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**

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks display. Based on recent accidents that have occurred in other Captain of the Port zones, and the

explosives hazard of fireworks, the Captain of the Port Chicago has determined fireworks launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, 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 of these events and help minimize the associated risks. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Chicago or his designated On-Scene representative. The Captain of the Port or his designated On-Scene representative may be contacted via VHF radio Channel 16.

**Discussion of Rule**

The safety zone will encompass the waters of the Illinois River within the arc of a circle with a 840-foot radius from the fireworks launch site with its center in the approximate position 41°21.2' N, 088°23.08' W. These coordinates are based upon North American Datum 1983 (NAD 1983). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

**Regulatory Evaluation**

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 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 proposal to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

**Small Entities**

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

The Coast Guard certifies under section 605 (b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

**Assistance for Small Entities**

In accordance with sec. 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), the Coast Guard offered to assist small entities in understanding this rule so that they can better evaluate its effectiveness 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, call 1-888-REG-FAIR (1-888-734-3247).

**Collection of Information**

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

**Federalism**

The Coast Guard has analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications under that Order.

**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 would 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 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

The Coast Guard has 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.

### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34) (g), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

### 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. 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.

### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and Record Keeping 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. A new temporary safety zone § 165.T09-249 is added to read as follows:

#### § 165.T09-249 Safety Zone; Grundy County Corn Festival, Morris, IL

(a) *Location.* The following is a safety zone: All waters of the Illinois River bounded by the arc of a circle with a 840-foot radius from the fireworks launch site with its center in the approximate position 41°21.2' N, 088°23.08' W (NAD 1983).

(b) *Effective period.* This section is effective from 8:30 p.m. until 9 p.m. (local) on September 27, 2003.

(c) *Regulations.* In accordance with § 165.23, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated On-Scene Representative. Section 165.23 also contains other general requirements.

Dated: August 12, 2003.

**Terrence W. Carter,**

*Captain, U.S. Coast Guard, Captain of the Port Chicago.*

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**BILLING CODE 4910-15-P**

### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 4

RIN 2900-AJ60

#### Schedule for Rating Disabilities; The Spine

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities by revising that portion of the Musculoskeletal System that addresses disabilities of the spine. The intended effect of this action is to update this portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

**DATES:** *Effective Date:* This amendment is effective September 26, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Audrey Tomlinson, Medical Officer, Policy and Regulations Staff (211A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 273-7215.

**SUPPLEMENTARY INFORMATION:** VA has amended its Schedule for Rating Disabilities, 38 CFR part 4, by revising that portion of the Musculoskeletal System that addresses disabilities of the spine. The intended effect of this action is to update this portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review. VA published a notice of proposed rulemaking in the **Federal Register** on September 4, 2002 (67 FR 56509). Interested persons were invited to submit written comments on or before November 4, 2002. We received comments from two commenters, one from the Disabled American Veterans, and one from a VA employee.

We proposed to evaluate spine disabilities under a General Rating Formula for Diseases and Injuries of the Spine that included the following introductory language: "With symptoms such as pain (whether or not it radiates), stiffness, or aching in the area of the spine affected by residuals of injury or disease". One commenter felt that including this language does not allow raters to take into account the impairment that may result from asymptomatic residuals or sequelae of diseases or injury of the spine and also that the proposed rating formula would not recognize pain as disabling unless it is present in conjunction with ankylosis or limitation of motion, *etc.* The commenter went on to say that symptoms such as pain, stiffness, and aching should alone or in combination with each other warrant compensable ratings when severe enough to cause disability.

In response to this comment, we have changed the introductory language quoted above to "With or without symptoms such as pain (whether or not it radiates), stiffness, or aching in the area of the spine affected by residuals of injury or disease". Doing so removes the requirement that there be pain, stiffness, or aching in order to assign any evaluation under the General Rating Formula for Diseases and Injuries of the Spine. Pain alone cannot be evaluated without being associated with an underlying pathologic abnormality. In