

significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph 32(g) of Commandant Instruction M16475.1D, this proposed rule is categorically excluded from further environmental documentation. A written 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.

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.

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. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. A new temporary § 165.T09-213 is added to read as follows:

§ 165.T09-213 Safety Zone; Betsie Bay, Frankfort, Michigan.

(a) *Location.* The following area is a safety zone: all waters and adjacent shoreline of Betsie Bay (off Frankfort, Michigan), Lake Michigan within the arc of a circle with a 250-foot radius from the fireworks launch site with its center in the approximate position of 44°37'41" N, 086°14'05" W (NAD 83).

(b) *Effective date.* This safety zone is effective from 9 p.m. (local) until 11 p.m. (local), June 28, 2003.

(c) *Regulations.* This safety zone is being established to protect the boating public during a planned fireworks display. In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated Patrol Commander.

Dated: May 5, 2003.

Raymond E. Seebald,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-03-203]

RIN 1625-AA00

Safety Zones; Captain of the Port Chicago Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing fifteen permanent safety zones for annual fireworks displays throughout the Captain of the Port Chicago Zone. These safety zones are necessary to control vessel traffic within the immediate vicinity of fireworks launch sites and to ensure the safety of life and property during each event. These safety zones are intended to restrict vessels from the area encompassed by the safety zone for the duration of each fireworks display.

DATES: This rule is effective on May 20, 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 CGD09-03-203 and are available

for inspection or copying at Coast Guard Marine Safety Office Chicago, 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) 986-2175.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 14, 2003, we published a notice of proposed rulemaking (NPRM) entitled Safety Zones; Captain of the Port Chicago Zone, in the **Federal Register** (68 FR 7473, February 14, 2003). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

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**. The events listed in this rule have been regularly held on an annual basis with widespread public participation. The Coast Guard has not received any complaints or negative comments previously with regard to these events. Delaying the effective date would be contrary to public interest because events being held in early June would be without an enforceable zone, thus placing the safety and property of spectators at unnecessary risk.

Background and Purpose

Each year, various organizations in Illinois and Michigan sponsor fireworks displays at the same locations during the same general time periods. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazards associated with these events, the Captain of the Port Chicago has determined that fireworks launches in close proximity to watercraft pose a risk to public safety and property. The likely combination of large numbers of inexperienced recreational boaters, 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 will ensure the safety of persons and property at these events and help minimize the associated risk.

In the past, and for those reasons stated above, the Captain of the Port has annually promulgated separate temporary rulemaking for each fireworks event. This proposed rule merely consolidates past temporary rulemakings into one rulemaking, includes other events for the purpose of

uniformity, and allows for a more thoughtful, timely rulemaking process. This rulemaking will create a permanent rule listing the safety zones for each fireworks launch platform used for each fireworks display. All geographic coordinates are based upon North American Datum 1983 (NAD 83).

Discussion of Comments and Changes

During the public comment period, the Coast Guard received no comments or related information pertaining to this rulemaking.

Regulatory Evaluation

This 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 exempted it from review 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 paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this final 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 final rule will not have a significant economic impact on a substantial number of small entities.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone sizes were carefully considered and consist in size such that they will not obstruct the regular flow of commercial traffic and will allow vessel traffic to pass around the safety zone. In addition, in the event that it may be necessary, prior to transiting commercial vessels can request permission from the Captain of the Port Chicago to transit through the zone.

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 this final rule so that they can better evaluate its effects on them and participate in the rulemaking process. No comments or questions were received from any small businesses.

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

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism 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 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 would not create an environmental risk to health or risk to safety that might 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 would 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.

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.

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. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. Add § 165.918 to read as follows:

§ 165.918 Safety Zones; Annual Fireworks Displays in the Captain of the Port Chicago Zone

(a) *Safety zones.* The following areas are designated safety zones:

(1) *Evanston Fourth of July*

Fireworks—Evanston, IL:

(i) *Location.* All waters and adjacent shoreline of Lake Michigan bounded by the arc of a circle with a 1000-foot radius from the fireworks launch site with its center in approximate position 42°02'58" N, 087°40'22" W (NAD 83).

(ii) *Expected date and time.* First Week in July; sunset to termination of display.

(2) *Independence Day Fireworks—Manistee, MI:*

(i) *Location.* All waters and adjacent shoreline of Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site with its center in approximate position 44°14'51" N, 086°20'46" W (NAD 83) (Off First Street Beach).

(ii) *Expected date and time.* First Week in July; sunset to termination of display.

(3) *Independence Day Fireworks—Lake Kalamazoo, Saugatuck, MI:*

(i) *Location.* All waters and adjacent shoreline of Lake Kalamazoo, Saugatuck, MI. within the arc of a circle with a 1000-foot radius from the fireworks launch site with its center in approximate position 42°38'52.5" N, 086°12'18.5" W (NAD 83).

(ii) *Expected date and time.* First Week in July; sunset to termination of display.

(4) *Independence Day Fireworks—White Lake, Whitehall, MI:*

(i) *Location.* All waters and adjacent shoreline of White Lake, Whitehall, MI. within the arc of a circle with a 1000-foot radius from the fireworks launch site with its center in approximate position of 43°24'33.5" N, 086°21'28.5" W (NAD 83).

(ii) *Expected date and time.* First Week in July; sunset to termination of display.

(5) *Pentwater July 3rd Fireworks—Lake Michigan, Pentwater, MI:*

(i) *Location.* All waters and adjacent shoreline of Lake Michigan and the Shipping Channel, Pentwater, MI. within the arc of a circle with a 1000-foot radius from the fireworks launch site on the North Breakwall with its center in approximate position of 43°46'56.5" N, 086°26'38" W (NAD 83).

(ii) *Expected date and time.* First Week in July; sunset to termination of display.

(6) *Venetian Night Fireworks—Lake Kalamazoo, Saugatuck, MI:*

(i) *Location.* All waters and adjacent shoreline of Lake Kalamazoo,

Saugatuck, MI. within the arc of a circle with a 1000-foot radius from the fireworks launch site with its center in approximate position 42°38'52.5" N, 086°12'18.5" W (NAD 83).

(ii) *Expected date and time.* The fourth weekend in July; or the first weekend in August; sunset to termination of display:

(7) *Venetian Night Fireworks—Lake Michigan, Hammond, IN:*

(i) *Location.* All waters and adjacent shoreline of Lake Michigan, Hammond, IN. within the arc of a circle with a 840-foot radius from the fireworks launch site with its center in approximate position of 41°41'54" N, 087°30'46" W (NAD 83).

(ii) *Expected date and time.* The first weekend in August; sunset to termination of display.

(8) *Venetian Night Fireworks—Monroe Street Harbor—Chicago, IL:*

(i) *Location.* All waters and adjacent shoreline of Lake Michigan, Chicago, IL. within the arc of a circle with a 1000-foot radius from the fireworks launch site at Monroe Street Harbor with its center in approximate position of 41°52'41" N, 087°36'37" W (NAD 83).

(ii) *Expected date and time.* The fourth weekend in July; or the first weekend in August; sunset to termination of display.

(9) *Wings Over the Lake Air Show—Michigan City, IN:*

(i) *Location.* All waters and adjacent shoreline of Lake Michigan, off Washington Park, Michigan City, IN. encompassed by a line drawn between the following coordinates starting at 41°43'39" N, 086°54'32" W; northwest to 41°44'06" N, 086°54'44" W; northeast to 41°44'21" N, 086°53'52" W; southeast to 41°43'55" N, 086°53'40" W; then southwest back to the point of origin (NAD 83). The safety zone starts approximately 250-feet from the East Pierhead and 250-feet from Washington Park Beach.

(ii) *Expected Date and Time.* The first week in July.

(10) *YMCA Lake Michigan Swim—Ferrysburg, MI:*

(i) *Location.* All waters and adjacent shoreline of Lake Michigan, off the Ferrysburg North Pier within 100-feet of a straight line from 43°03.45' N, 086°13.4' W; to 43°05' N, 086°15.24' W (NAD 83).

(ii) *Expected date and time.* The 3rd week in July; from 8 a.m. (local) until the end of the event.

(11) *Team Aquatics Ski Show—Grand River, Grand Haven, MI:*

(i) *Location.* All waters and adjacent shoreline of the Grand River, Grand Haven, MI. from 43°04'08" N, 086°14'13" W; thence east to 43°04'06"

N, 086°14'07" W; thence southwest to 43°03'53" N, 086°14'14" W; and east to 43°03'51.5" N, 086°14'07.5" W (NAD 83).

(ii) *Expected date and time.* The 4th week in July; from 6 p.m. (local) until 8:30 p.m. (local).

(12) *Chicago Flatwater Classic—Chicago River, Chicago, IL:*

(i) *Location.* All waters and adjacent shoreline of the Chicago River from a line drawn across the river at mile marker 323 to a line drawn across the river at mile marker 331.

(ii) *Expected date and time.* The 2nd weekend in August; from 9 a.m. (local) until 3:30 p.m. (local).

(13) *Navy Pier Summer Fireworks—Lake Michigan, Chicago, IL.*

(i) *Locations.*

(1) *Primary launch site.* All waters and adjacent shoreline of Lake Michigan bounded by the arc of a circle with a 1400-foot radius from the fireworks launch platform with its center in approximate position 41°53'18" N, 087°36'08" W (NAD 83).

(2) *Alternate launch site.* In the case of inclement weather, the alternate launch site is all waters and adjacent shoreline of Lake Michigan bounded by the arc of a circle with a 1400-foot radius with its center in approximate position 41°53'24" N, 087°35'44" W (NAD 83).

(ii) *Expected dates and times.* Every Wednesday and Saturday evening from 9 p.m. (local) until termination of display from June 1 thru September 1.

(14) *Navy Pier 4th of July Fireworks—Lake Michigan, Chicago, IL.*

(i) *Locations.*

(1) *Primary launch site.* All waters and adjacent shoreline of Lake Michigan bounded by the arc of a circle with a 1400-foot radius from the fireworks launch platform with its center in approximate position 41°53'18" N, 087°36'08" W (NAD 83).

(2) *Alternate launch site.* In the case of inclement weather, the alternate launch site is all waters and adjacent shoreline of Lake Michigan bounded by the arc of a circle with a 1400-foot radius with its center in approximate position 41°53'24" N, 087°35'44" W (NAD 83).

(ii) *Expected date and time.* The first week of July; sunset to termination of display.

(15) *St. Joseph's River Marathon Swim—St. Joseph, MI.*

(i) *Location.* All the waters of Lake Michigan (off of St. Joseph, MI.), and the St. Joseph River, within 100 feet of the race course.

(ii) *Expected date and time.* The 3rd week in July; from 11 a.m. (local) until the end of the event.

(b) Regulations.

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

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed. U.S. Coast Guard Auxiliary, representatives of the event organizer, and local or state officials may be present to inform vessel operators of this regulation and other applicable laws.

(3) In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Chicago to transit the safety zone. Approval in such cases will be case-by-case. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via Channel 16, VHF-FM.

(c) Captain of the Port Chicago will announce the exact time and location of the annual events listed in this regulation by Notice of Implementation, Broadcast Local Notice to Mariners, or any other means deemed appropriate.

Dated: May 5, 2003.

Raymond E. Seebald,

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

[FR Doc. 03-12493 Filed 5-19-03; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Western Alaska 03-002]

RIN 1625-AA00

Security Zone: Protection of Alaska Marine Highway System (AMHS) Vessel M/V Kennicott in Western Alaska Waters

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: Increases in the Coast Guard's maritime security posture necessitate establishing temporary regulations for the security of Alaska Marine Highway System (AMHS) vessels in the navigable waters of Western Alaska. This security zone will provide for the regulation of vessel traffic in the vicinity of AMHS

vessels in the navigable waters of Western Alaska.

DATES: This temporary rule is effective April 28, 2003, until September 19, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket COTP Anchorage 03-012 and are available for inspection or copying at Marine Safety Office Anchorage, 510 L Street, Suite 100, Anchorage, Alaska 99501, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CDR Robert Forgit, Marine Safety Office Anchorage, 510 L Street, Suite 100, Anchorage, Alaska 99501, (907) 271-6771.

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) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to safeguard AMHS vessels from sabotage, other subversive acts, or accidents. If normal notice and comment procedures were followed, this rule would not become effective soon enough to provide immediate protection to AMHS vessels from the threats posed by hostile entities and would compromise the vital national interest in protecting maritime transportation and commerce. The security zone in this regulation has been carefully designed to minimally impact the public while providing a reasonable level of protection for AMHS vessels. For these reasons, following normal rulemaking procedures in this case would be impracticable, unnecessary, and contrary to the public interest.

Background and Purpose

The Coast Guard, through this action, intends to assist AMHS vessels by establishing a security zone to exclude persons and vessels from the immediate vicinity. Recent events highlight the fact that there are hostile entities operating with the intent to harm U.S. National Security. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks (67 FR 58317 (Sept. 13, 2002) (continuing national emergency with respect to terrorist attacks), 67 FR 59447 (Sept. 20, 2002) (continuing national emergency with respect to

persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Act of June 15, 1917, as amended August 9, 1950, by the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the attacks (E.O. 13,273, 67 FR 56215 (Sept. 3, 2002) (security endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations)).

Entry into this zone will be prohibited unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other federal, state, or local agencies.

Discussion of Rule

This rule controls vessel movement in a regulated area surrounding AMHS high capacity passenger vessels that are in service. For the purpose of this regulation, the AMHS vessel is the M/V Kennicott. All vessels authorized to be within 100 yards of this vessel shall operate at the minimum speed necessary to maintain a safe course, and shall proceed as directed by the on-scene official patrol or AMHS vessel master. No vessel, except a public vessel (defined below), is allowed within 100 yards of the subject vessel, unless authorized by the on-scene official patrol or AMHS vessel master. Vessels requesting to pass within 100 yards of this vessel shall contact the on-scene official patrol or AMHS vessel master on VHF-FM channel 16 or 13. The on-scene official patrol or AMHS vessel master may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of the subject AMHS vessels in order to ensure a safe passage in accordance with the Navigation Rules. Similarly, commercial vessels anchored in a designated anchorage area may be permitted to remain at anchor within 100 yards of passing this AMHS vessel. Public vessels for the purpose of this Temporary Final Rule are vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

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. It is not "significant" under the regulatory policies and procedures of