

**§ 117.741 Raccoon Creek.**

(a) The draw of the Route 130 highway bridge, mile 1.8 at Bridgeport, shall open on signal:

(1) March 1 through November 30, from 7 a.m. to 11 p.m.

(2) At all other times, if at least four hours notice is given.

(b) The draw of the CONRAIL Railroad Bridge, mile 2.0 at Bridgeport, shall operate as follows:

(1) From March 1 through November 30, the draw shall be left in the open position at all times and will only be closed for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

(i) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in § 117.31(b).

(ii) Before the bridge closes for any reason, a train crewmember will observe the waterway for approaching craft, which will be allowed to pass. A train crewmember will then operate the bridge by radiophone. The bridge shall only be closed if a train crewmember's visual inspection shows that the channel is clear and there are no vessels transiting in the area.

(iii) While the CONRAIL Railroad Bridge is moving from the full open to the full closed position, a train crewmember will maintain constant surveillance of the navigational channel to ensure no conflict with maritime traffic exists. In the event of failure or obstruction, the train crewmember will stop the bridge and return the bridge to the open position.

(iv) The CONRAIL Railroad channel traffic lights will change from flashing green to flashing red anytime the bridge is not in the full open position.

(v) During closing of the span, the channel traffic lights will change from flashing green to flashing red, the horn will sound four times, followed by a pause, then the four blasts will be repeated and the bridge will close. When the rail traffic has cleared the swing span, the horn will automatically sound five times to signal the draw of the CONRAIL Railroad Bridge is about to return to its full open position.

(vi) During open span movement, the channel traffic lights will be flashing red, the horn will sound four times, followed by a pause, then four blasts will be repeated until the bridge is in the full open position. In the full open position, the channel traffic lights will then turn from flashing red to flashing green.

(2) At all other times, the draw may be left in the closed position and opened on signal if at least four hours

notice is given by telephone at (856) 231-2393.

Dated: April 29, 2003.

**Sally Brice O'Hara,**

*Rear Admiral, Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 03-12491 Filed 5-19-03; 8:45 am]

**BILLING CODE 4910-15-U**

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

[CGD09-01-002]

RIN 1625-AA00

**Safety Zone; Captain of the Port Detroit Zone**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of implementation of regulation.

**SUMMARY:** The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Detroit Zone during June 2003. This action is necessary to provide for the safety of life and property on navigable waters during these events. These zones will restrict vessel traffic from a portion of the Captain of the Port Detroit Zone.

**DATES:** Effective from 9 p.m. (Eastern Time) on June 23, 2003 to 11 p.m. (Eastern Time) on June 29, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant Junior Grade Brandon Sullivan, U.S. Coast Guard Marine Safety Office, Detroit, MI at (313) 568-9580.

**SUPPLEMENTARY INFORMATION:** The Coast Guard is implementing the permanent safety zones in 33 CFR 165.907 (66 FR 27868, May 21, 2001), for fireworks displays in the Captain of the Port Detroit Zone during June 2003. The following safety zones are in effect for fireworks displays occurring in the month of June 2003:

(1) *Bay-Rama Fishfly Festival, New Baltimore, MI. Location.* All waters off New Baltimore City Park, Lake St. Clair-Anchor Bay bounded by the arc of a circle with a 300-yard radius with its center located at approximate position 42°41' N, 082°44' W (NAD 83).

*Enforcement period.* June 26, 2003, from 9 p.m. to 11 p.m.

(2) *St. Clair Shores Fireworks, St. Clair Shores, MI. Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°32' N, 082°51' W, about 1000 yards

east of Veterans Memorial Park (off Masonic Rd.), St. Clair Shores, MI (NAD 83).

*Enforcement period.* June 27, 2003, from 10 p.m. to 11 p.m.

(3) *Port Huron 4th of July Fireworks, Port Huron, MI. Location.* All waters of the Black River within a 300 yard radius of the fireworks barge in approximate position 42°58' N, 082°25' W about 300 yards east of 223 Huron Ave., in the Black River (NAD 83).

*Enforcement period.* June 29, 2003, from 10 p.m. until 11 p.m.

(4) *Sigma Gamma Assoc., Grosse Pointe Farms, MI.*

*Location.* The waters off Ford's Cove, Lake St. Clair bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°27' N, 082°52' W (NAD 83).

*Enforcement period.* June 23, 2003 from 9 p.m. to 10 p.m.

In order to ensure the safety of spectators and transiting vessels, these safety zones will be in effect for the duration of the events. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Detroit to transit the safety zone. Approval will be made on a case-by case basis. Requests must be made in advance and approved by the Captain of Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Detroit on channel 16, VHF-FM.

Dated: May 9, 2003.

**Patrick G. Gerrity,**

*Commander, U.S. Coast Guard, Captain of the Port Detroit.*

[FR Doc. 03-12498 Filed 5-19-03; 8:45 am]

**BILLING CODE 4910-15-P**

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

[CGD09-03-212]

RIN 1625-AA00

**Safety Zone; Lake Michigan, Chicago, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety for the Chicago to Michigan City sailboat race. The safety zone encompasses a portion of Lake Michigan. This safety zone is necessary to ensure vessel safety in the vicinity of the race start area, protecting both competitors and spectators from

hazards associated with this sail boat race. This safety zone is intended to restrict vessel traffic from a portion of southern Lake Michigan.

**DATES:** This temporary final rule is effective from 7 a.m. (local), until 10 a.m. on June 7, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CDG09-03-212 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Chicago, 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) 986-2125.

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

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**. Delaying the effective date would be contrary to public interest because the June 7, 2003 event would then be without an enforceable zone, thus placing the safety and property of spectators at unnecessary risk.

##### **Background and Purpose**

During the start of the Chicago to Michigan City sailboat race, the Coast Guard is establishing a safety zone encompassing the starting area. The Coast Guard expects approximately 150 vessels to participate in this event. This safety zone is required to ensure the safety of vessels and spectators from hazards associated with this sailing event. Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Chicago or the designated Patrol Commander. The designated Patrol Commander on scene may be contacted on VHF Channel 16.

##### **Discussion of Rule**

The safety zone will encompass all waters of Lake Michigan bounded by the arc of a circle with a 1000 foot radius with its center in approximate position 41°52'67" N; 087°35'24" W. These coordinates are based upon North American Datum 1983. All vessels except those officially participating in this event are prohibited from entering the safety zone without the permission of the Captain of the Port Chicago or his on-scene representative. The on-scene representative will be the Patrol Commander.

##### **Regulatory Evaluation**

This proposed 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 this rule under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

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

##### **Small Entities**

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

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for

the following reasons: The proposed zone is only in effect for two hours on the day of the event.

The designated area is being established to allow for maximum use of the waterway for commercial vessels to enjoy the fireworks display in a safe manner. In addition, commercial vessels transiting the area can transit around the area. 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 want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Chicago (see **ADDRESSES**.)

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 proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

##### **Federalism**

We have analyzed this proposed rule under Executive Order 13132 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) governs the issuance of Federal regulations that 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 would 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 proposed 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 proposed 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 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.T09-212 is added to read as follows:

#### § 165.T09-212 Safety Zone; Lake Michigan, Chicago, Illinois.

(a) *Location.* The following is a safety zone: All waters of Lake Michigan bounded by the arc of a circle with a 1000-foot radius with its center in approximate position 41°52'67"N; 087°35'24"W. These coordinates are based upon North American Datum 1983.

(b) *Regulations.* All vessels, except those officially participating in the Chicago to Michigan City Sailboat Race, are prohibited from entering this safety zone without the permission of the Captain of the Port Chicago or his designated on-scene representative which will be the Patrol Commander.

(c) *Effective date.* This rule is effective from 7 a.m. until 10 a.m. on June 7, 2003.

Dated: May 5, 2003.

**Raymond E. Seebald,**

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

[FR Doc. 03-12497 Filed 5-19-03; 8:45 am]

**BILLING CODE 4910-15-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD09-03-213]

RIN 1625-AA00

#### Safety Zone; Betsie Bay, Lake Michigan

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in Betsie Bay, Frankfort, Michigan. This safety zone is necessary to protect vessels and spectators from potential airborne hazards during a planned fireworks display over a portion of Betsie Bay. The safety zone is intended to restrict vessel traffic from a portion of Betsie Bay in Lake Michigan, Frankfort, Michigan.

**DATES:** This temporary final rule is effective from 9 p.m. (local) until 11 p.m. (local) on June 28, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CDG09-03-213 and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Chicago, 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) 986-2125.

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

#### Background and Purpose

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