

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD01-02-043]

RIN 2115-AA97

Safety Zone; Town of Branford Annual Fireworks, Branford, CT**AGENCY:** Coast Guard, DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the Town of Branford Annual Fireworks Display, in Branford Harbor, Branford, CT. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of Branford Harbor.

DATES: Comments and related material must reach the Coast Guard on or before May 23, 2002.

ADDRESSES: You may mail comments and related material to Marine Events, Coast Guard Group/Marine Safety Office Long Island Sound, Command Center, 120 Woodward Ave., New Haven, CT 06512. Coast Guard Group/Marine Safety Office Long Island Sound maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Group/MSO Long Island Sound, New Haven, CT, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Boatswain's Mate Second Class (BM2) Ryan Peebles, Group Operations Petty Officer, Coast Guard Group/MSO Long Island Sound at (203)468-4408.

SUPPLEMENTARY INFORMATION:**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD01-02-043], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all

comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for a meeting by writing to Coast Guard Group/MSO Long Island Sound at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to establish a temporary safety zone for the Town of Branford Annual Fireworks Display in Branford Harbor. The proposed safety zone is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. This proposed safety zone would cover the minimum area needed and impose the minimum restrictions necessary to ensure the protection of all vessels.

Discussion of Proposed Rule

The proposed safety zone is for the Town of Branford Annual Fireworks Display held in Branford Harbor, Branford, CT. This event will be held on June 22, 2002. In the event of inclement weather, the event will be held on June 23, 2001. The proposed safety zone would be in effect from 8:45 p.m. until 9:45 p.m. on the date of the event. The proposed safety zone would encompass all waters of Branford Harbor within a 600-foot radius of approximate position 41°15'30" N, 072°49'20" W (NAD 1983).

Public notifications would be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts. Marine traffic would be allowed to transit around the safety zone at all times. Vessels would not be precluded from mooring at or getting underway from recreational or commercial piers in the vicinity of the zone. No vessel would be permitted to enter the safety zone without permission from the Captain of the Port, Long Island Sound.

Regulatory Evaluation

This proposed 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 the

Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed safety zone would temporarily close a portion of Branford Harbor to vessel traffic. However, the impact of this proposed rule is expected to be minimal for the following reasons: the event is of limited duration; vessels would not be precluded from getting underway, or mooring at, public or private facilities in the vicinity of the event; advance advisories would be made to the maritime community; and marine traffic would be permitted to still transit around the zone during the event.

The projected size of this proposed safety zone was determined using National Fire Protection Association standards and the Captain of the Port Long Island Sound Standing Orders for 6-inch mortars fired from a barge, combined with the Coast Guard's knowledge of tide and current conditions in the area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this proposed 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 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 vessels intending to transit or anchor in a portion of Branford Harbor during the time this zone is activated. This proposed safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: the event is of limited duration; vessels would not be precluded from getting underway, or mooring at, public or private facilities in the vicinity of the event; advance advisories would be made to the maritime community; and marine traffic would be permitted to transit around the zone during the event.

If you think that your business, organization, or governmental

jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the address under **ADDRESSES** explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Boatswain's Mate Second Class (BM2) Ryan Peebles, Operations Petty Officer, Coast Guard Group/MSO Long Island Sound at (203) 468–4408.

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

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 proposed 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 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

We have 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 would not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This proposed 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

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.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this proposed

rule is categorically excluded from further environmental documentation. This proposed rule fits paragraph 34(g) as it establishes a safety zone. A “Categorical Exclusion Determination” is 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 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, 160.5; 49 CFR 1.46.

2. From 8:45 p.m. June 22, 2002 through 9:45 p.m. June 23, 2002, add temporary § 165.T01–043 to read as follows:

§ 165.T01–043 Safety Zone; Town of Branford Annual Fireworks Display, Branford, CT.

(a) *Location.* The following area is a safety zone: All waters of Branford Harbor within a 600-foot radius of approximate position 41°15'30" N, 072°49'20" W (NAD 1983).

(b) *Enforcement period.* This safety zone will be enforced from 8:45 p.m. to 9:45 p.m. June 22, 2002. In case the event is postponed because of inclement weather, the zone will be enforced instead during the same hours on June 23, 2002.

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

(2) No vessels will be allowed to transit the safety zone without the permission of the Captain of the Port, Long Island Sound.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 3, 2002.

J.J. Coccia,

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

[FR Doc. 02–9938 Filed 4–22–02; 8:45 am]

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