

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

[CGD09-01-132]

RIN 2115-AA97

Safety Zone; Lake St. Clair, Grosse Pointe Yacht Club, Grosse Pointe Shores, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a 400-yard radius safety zone off of Harbor Seawall in Lake St. Clair for a fireworks display on October 13, 2001. This regulation is necessary to control vessel traffic within the immediate vicinity of the fireworks launch site and to ensure the safety of life and property during the event. Entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative.

DATES: This regulation is effective from 9 p.m. until 11 p.m. on October 13, 2001.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [CGD09-01-132] and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave., Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: ENS Brandon Sullivan, U. S. Coast Guard Marine Safety Office Detroit, (313) 568-9558.

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. 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 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 Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Detroit 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, 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 around the locations of the launch platform will help ensure the safety of persons and property at this event and help minimize the associated risk.

The safety zone will encompass all waters surrounding the fireworks launch platform within a 400-yard radius of the fireworks barge with its center in approximate position 42°26'01" N, 083°51'56" W, off of Harbor Seawall. The geographic coordinates are based upon North American Datum 1983 (NAD 83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol representative. Entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

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 not reviewed this rule 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). 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 (2 hours) that vessels will be restricted from the zone.

Small Entities

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

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

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone is only in effect from 9 p.m. until 11 p.m. the day of the event. Vessel traffic may pass safely around the safety zone. Before the effective period, we will issue maritime advisories widely available to users of the Detroit River by the Ninth Coast Guard District Local Notice to Mariners, and Marine Information Broadcasts. Facsimile broadcasts may also be made.

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 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 Detroit (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 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 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) 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 rule would 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 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 34(g) of Commandant Instruction M16475.1C, this 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**.

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.

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.

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; 49 CFR 1.46.

2. A new temporary § 165.T09-105 is added to read as follows:

§ 165.T09-105 Safety Zone; Lake St. Clair, Grosse Pointe Yacht Club, Gross Pointe Shores, MI.

(a) *Location.* The safety zone will encompass all navigable waters of Lake St. Clair within a 400-yard radius of the fireworks barge being used as the launch platform with its center in approximate position 42°26'01" N, 083°51'56" W, off of Harbor Seawall. The geographic

coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Effective times and date.* This section is effective from 9 p.m. until 11 p.m. (local time) on October 13, 2001. The designated on-scene Patrol Commander may be contacted via VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit, or his designated on-scene representative.

Dated: October 1, 2001.

P.G. Gerrity,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09-01-138]

RIN 2115-AA97

Security Zone; Lake Michigan, Kewaunee, WI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing the navigable waters of Western Lake Michigan, adjacent to the Kewaunee nuclear power plant. This security zone is necessary to prevent unauthorized access into this nuclear power plant facility. Entry into, transit through or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on-scene representative.

DATES: This rule is effective from September 28, 2001 through June 15, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09-01-138 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, U.S. Coast Guard Marine Safety Office Milwaukee, (414) 747-7155.