

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; 49 CFR 1.46.

2. Effective June 21, 2002 to July 5, 2002, temporary § 165.T13–007 is added to read as follows:

§ 165.T13–007 Security Zone, Naval Submarine Base Bangor, Puget Sound, Washington.

(a) *Naval Submarine Base, Bangor, WA:* The following area is a security zone: All waters of Puget Sound, Washington State, enclosed by the following: A line beginning at 47°46′18″ N, 122°42′18″ W; thence to 47°46′32″ N, 122°42′20″ W; thence to 47°46′38″ N, 122°42′52″ W; thence to 47°44′15″ N, 122°44′50″ W; thence to 47°43′53″ N, 122°44′58″ W; thence to 47°43′17″ N, 122°44′49″ W [Datum: NAD 1983].

(b) *Exemptions.* Vessels that desire access to this zone and are not otherwise exempted as listed below, shall secure permission from the Captain of the Port or his on-scene designated representative(s). Section 165.33 paragraphs (a), (e), and (f) do not apply to the following vessels or individuals on board those vessels:

(i) Public vessels of the United States, including United States Naval vessels.

(ii) Vessels that are performing work pursuant to a contract with the United States Navy that requires their presence in the security zone(s).

(iii) Any other vessels or class of vessels mutually agreed upon in advance by the Captain of the Port and the cognizant Naval Commander. Vessels operating in the security zone(s) under this exemption must have previously obtained a copy of a certificate of exemption permitting their operation in the security zone from the security offices established by the cognizant Naval Base Commander. This written exemption shall state the date(s) on which it is effective and may contain further restrictions on vessel operations within the security zone as have been previously agreed upon by the Captain of the Port and the cognizant Naval Commander. The certificate of exemption shall be maintained on board the exempted vessel so long as such vessel is operating in the security zone.

(c) *Regulations.* In accordance with the general regulations in §§ 165.30 and 165.33 of this part, no person or vessel may enter the above security zone unless authorized by the Captain of the Port or his designated representatives. Vessels and persons granted

authorization to enter the security zone shall obey all lawful orders or directions of the Captain of the Port or his designated representatives. The U.S. Navy and other federal, state, or local agencies may assist the Captain of the Port in the patrol and enforcement of this zone.

Dated: June 20, 2002.

Erroll Brown,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–062]

RIN 2115–AA97

Safety Zones; Port of New York and New Jersey.

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing five temporary safety zones for the Staten Island Yankees, Midland Beach, Museum of Modern Art, and Conference House Park fireworks displays located on the New Jersey Pierhead Channel, Lower New York Bay, the East River, and the Arthur Kill. This action is necessary to provide for the safety of life on navigable waters during the events. This action is intended to restrict vessel traffic in the affected waterways.

DATES: This rule is effective from 8 p.m. on Saturday, June 22, to 10 p.m. on Sunday, July 7, 2002.

ADDRESSES: The Waterways Oversight Branch of Coast Guard Activities New York 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, are part of docket CGD01–02–062 and are available for inspection or copying at Waterways Oversight Branch, Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander M. Day, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354–4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the date the Applications for Approval of Marine Event were received, there was insufficient time to draft and publish an NPRM. The Staten Island Yankees safety zone will have minimal impact on the waterway. Vessels may still transit through the eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel, and the southern 360 yards of the 400-yard wide Kill Van Kull during the events. The zone will only be enforced for 1 and a half hours; vessels can be given permission to transit the zone for all but about 20 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

The Midland Beach safety zone will have minimal impact on Lower New York Bay. Vessels may still transit around the zone during the event. The zone will only be enforced for 1 and a half hours; vessels can be given permission to transit the zone for all but about 20 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

The Museum of Modern Art safety zone will have minimal impact on the East River. Vessels may still transit through the eastern 350 feet, and the 350 feet between the western boundary of these safety zones and the eastern boundary of the United Nations security zone, of the 780-yard wide East River during the event. The zone will only be enforced for 1 and a half hours; vessels can be given permission to transit the zone for all but about 20 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

An annual safety zone has been published for the Conference House Park fireworks on the Arthur Kill in 33 CFR 165.161 effective on July 3, 4, and 5. The date for this year's event has been moved to July 6, 2002. The zone will only be enforced for 1 and a half hours; vessels can be given permission to transit the zone for all but about 20 minutes during this time. Further, it is an annual, local event, and recreational vessels may still transit through the

western 45 yards of the 625-yard wide Arthur Kill during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard further finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to close the waterways and protect the maritime public from the hazards associated with fireworks launched from a barge in the area.

Background and Purpose

Staten Island Yankees Fireworks Displays, New Jersey Pierhead Channel, NJ

The Coast Guard has received an application to hold a fireworks program on the waters of the New Jersey Pierhead Channel and Kill Van Kull. This rule establishes a safety zone in all waters of the New Jersey Pierhead Channel and Kill Van Kull within a 180-yard radius of the fireworks barge in approximate position 40°39'13.5" N 074°04'39.1" W (NAD 1983), about 125 yards southeast of the New Jersey Pierhead South Entrance Lighted Gong Buoy 1 (LLNR 37010). The safety zone will be enforced from 8 p.m. until 9:30 p.m. on Saturday, June 22, and Thursday, July 4, 2002. The safety zone prevents vessels from transiting a portion of the New Jersey Pierhead Channel and Kill Van Kull and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through the eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel and through the southern 360 yards of the 400-yard wide Kill Van Kull during these events. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for six inch mortars fired from a barge, combined with the Coast Guard's knowledge of tide and current conditions in the area.

Midland Beach Fireworks Display, Lower New York Bay

The Coast Guard has received an application to hold a fireworks program

on the waters of Lower New York Bay. This rule establishes a safety zone in all waters of Lower New York Bay within a 300-yard radius of the fireworks barge in approximate position 40°34'12.0" N 074°04'29.6" W (NAD 1983), about 800 yards southeast of Midland Beach. The safety zone will be enforced from 8:30 p.m. until 10 p.m. on Saturday, June 29, 2002. If the event is cancelled due to inclement weather, then this safety zone will be enforced from 8:30 p.m. until 10 p.m. on Sunday, June 30, 2002. The safety zone prevents vessels from transiting a portion of Lower New York Bay and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit around the zone during this event. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 10 inch mortars fired from a barge, combined with the Coast Guard's knowledge of tide and current conditions in the area.

Museum of Modern Art Fireworks Display, East River, NY

The Coast Guard has received an application to hold a fireworks program on the waters of the East River. This rule establishes two safety zones in all waters of the East River within a 180-yard radius of the fireworks barge in approximate position 40°44'51.4" N 073°57'42.9" W (NAD 1983), about 215 yards southeast of Roosevelt Island and all waters bound by the following points: 40°44'53.7" N 073°57'49.3" W; thence to 40°45'06.8" N 073°57'39.1" W; thence to 40°45'00.7" N 073°57'27.0" W; thence to 40°44'48.1" N 073°57'37.3" W; (NAD 1983), thence to the point of origin, between the fireworks barge and the southern 295 yards of Roosevelt Island. These safety zones will be enforced from 8 p.m. until 10 p.m. on Saturday, June 29. The safety zones prevent vessels from transiting a portion of the East River and are needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through the eastern 350 feet, and the 350 feet between the western boundary of these safety zones and the eastern boundary of the United Nations security zone, of the 780-yard wide East River during the

event. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zones. Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts.

The size of these safety zones was determined using National Fire Protection Association and New York City Fire Department standards for 6 inch mortars fired from a barge, combined with the Coast Guard's knowledge of tide and current conditions in the area.

Conference House Fireworks Display, Arthur Kill, NJ/NY

The Coast Guard has received an application to hold a fireworks program on the waters of the Arthur Kill. This rule establishes a safety zone in all waters of the Arthur Kill within a 300-yard radius of the fireworks barge in approximate position 40°30'18" N 074°15'30" W (NAD 1983), about 300 yards west of Conference House Park, Staten Island. The safety zone will be enforced from 8:30 p.m. until 10 p.m. on Saturday, July 6, 2002. If the event is cancelled due to inclement weather, then this safety zone will be enforced from 8:30 p.m. until 10 p.m. on Sunday, July 7, 2002. The safety zone prevents vessels from transiting a portion of the Arthur Kill and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Recreational vessels will still be able to transit through the western 45 yards of the 625-yard wide Arthur Kill during this event. Additionally, recreational vessels would not be precluded from mooring at or getting underway from piers in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 10 inch mortars fired from a barge, combined with the Coast Guard's knowledge of tide and current conditions in the area.

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

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

This finding is based on: The minimal time that vessels will be restricted from the zones; the Conference House Fireworks is an annual, local event; recreational vessels may still transit around the zones during the events; the zones are only in effect for 1 and a half hours; and vessels can be given permission to transit the zone for all but about 20 minutes during this time. Advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

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

This rule will 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 the New Jersey Pierhead Channel, Lower New York Bay, East River, and the Arthur Kill during the times these zones are activated.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The Conference House Fireworks is an annual, local event; recreational vessels may still transit around the zones during these events; commercial vessels may still transit around all the zones except in the Arthur Kill; the zones are only in effect for 1 and a half hours; and vessels can be given permission to transit the zone for all but about 20 minutes during this time. We will ensure wide dissemination of maritime advisories to users of the New Jersey Pierhead Channel, Lower New York Bay, East River, and the Arthur Kill via Local Notice to Mariners and marine information broadcasts.

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 the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct cost of compliance on them. We have analyzed this 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 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 does 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 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 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 have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes five safety zones. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects 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 p.m. June 22, 2002, to 10 p.m. July 7, 2002, add temporary § 165.T01–062 to read as follows:

§ 165.T01–062 Safety Zones; Port of New York and New Jersey.

(a) The following areas are established as safety zones:

(1) *New Jersey Pierhead Channel Safety Zone.* (i) *Location.* All waters of the New Jersey Pierhead Channel and Kill Van Kull within a 180-yard radius of the fireworks barge in approximate position 40°39'13.5" N 074°04'39.1" W, (NAD 1983) about 125 yards southeast of the New Jersey Pierhead South Entrance Lighted Gong Buoy 1 (LLNR 37010).

(ii) *Enforcement period.* Paragraph (a)(1)(i) will be enforced from 8 p.m. to 9:30 p.m. on Saturday, June 22, and Thursday, July 4, 2002.

(2) *Lower New York Bay Safety Zone.* (i) *Location.* All waters of Lower New York Bay within a 300-yard radius of the fireworks barge in approximate position 40°34'12.0" N 074°04'29.6" W, (NAD 1983) about 800 yards southeast of Midland Beach.

(ii) *Enforcement period.* Paragraph (a)(2)(i) will be enforced from 8:30 p.m. to 10 p.m. on Saturday, June 29, and Sunday, June 30, 2002.

(3) *East River Safety Zone*—(i) *Location.* All waters of the East River within a 180-yard radius of the fireworks barge in approximate position 40°44'51.4" N 073°57'42.9" W (NAD 1983), about 215 yards southeast of Roosevelt Island and all waters bound by the following points: 40°44'53.7" N 073°57'49.3" W; thence to 40°45'06.8" N 073°57'39.1" W; thence to 40°45'00.7" N 073°57'27.0" W; thence to 40°44'48.1" N 073°57'37.3" W; (NAD 1983), thence to the point of origin, between the fireworks barge and the southern 295 yards of Roosevelt Island.

(ii) *Enforcement period.* Paragraph (a)(3)(i) will be enforced from 8 p.m. to 10 p.m. on Saturday, June 29, 2002.

(4) *Arthur Kill Safety Zone*—(i) *Location.* All waters of the Arthur Kill within a 300-yard radius of the fireworks barge in approximate position 40°30'18.0" N 074°15'30" W, (NAD 1983) about 300 yards west of Conference House Park, Staten Island.

(ii) *Enforcement period.* Paragraph (a)(4)(i) will be enforced from 8:30 p.m. to 10 p.m. on Saturday, July 6, and Sunday, July 7, 2002.

(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. 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: June 24, 2002.

C.E. Bone,

Captain, U.S. Coast Guard, Captain of the Port, New York.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

CGD09-02-037

RIN 2115-AA97

Safety Zone; Detroit River, Grosse Ile, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the 4th of July Celebration fireworks on July 6, 2002. This safety zone is necessary to control vessel traffic within the immediate location of the fireworks launch site and to ensure the safety of life and property during the event. This safety zone is intended to restrict vessel traffic from a portion of the Detroit River.

DATES: This temporary final rule is effective from 9 p.m. until 10:30 p.m. on July 6, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [CGD09-02-037] 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: LTJG Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, at (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, and 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 necessary 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 a fireworks display. 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 location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risk.

The safety zone will encompass all waters of the Detroit River surrounding the fireworks launch platform bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°10'4" N, 083°09'3" W. 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, 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 this rule under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation