

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Port Arthur-02-002]

RIN 2115-AA97

Safety Zones; Port Neches Riverfest, Neches River, Port Neches, Texas

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones for all waters of the Neches River, adjacent to Port Neches Park in Port Neches, Texas. These safety zones are necessary to protect spectators and vessels from the potential safety hazards associated with a fireworks display and boat races that are part of the Port Neches Chamber of Commerce Riverfest. Entry into these zones is prohibited unless specifically authorized by the Captain of the Port, Port Arthur or his designated representative.

DATES: This rule is effective from 8 p.m. on May 11, 2002 through 6 p.m. on May 12, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Port Arthur-02-002] and are available for inspection or copying at Marine Safety Office Port Arthur, 2875 Jimmy Johnson Blvd., Port Arthur, Texas, 77640 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Mike Kicklighter, Marine Safety Office Port Arthur, at (409) 723-6500.

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 a NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect vessels and mariners from the hazards associated with this event. The Coast Guard did not receive notice of the Port Neches Riverfest in time to publish a NPRM or to have the temporary final rule, published in the **Federal Register** 30 days prior to the event.

Background and Purpose

The Port Neches Chamber of Commerce Riverfest will include a fireworks display as well as a series of boat races on the Neches River, adjacent to Port Neches Park, Port Neches, Texas. Safety zones will be established during the fireworks display and during the boat races to ensure the safety of the participants, spectators, and other vessels.

The fireworks safety zone will encompass all waters of the Neches River, shore to shore, adjacent to Port Neches Park, between the northern boundary at 30°00'00" N and the southern boundary at 29°59'42" N. These coordinates are based upon [NAD 83]. This safety zone will be enforced from 8 p.m. to 10 p.m. on May 11, 2002.

The safety zone for the boat races will encompass all waters of the Neches River, shore to shore, adjacent to Port Neches Park in Port Neches, Texas, between the northern boundary at 30°00'12" N and the southern boundary at 29°59'36" N. These coordinates are based upon [NAD 83]. This safety zone will be enforced from 8 a.m. to 6 p.m. on May 12, 2002.

Entry into these zones by anyone other than event participants is prohibited, unless authorized by the Captain of the Port, Port Arthur or his designated representative.

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 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).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies procedures of DOT is unnecessary. The waterway will be closed briefly from 8 p.m. to 10 p.m. on May 11, 2002 for the fireworks display. On May 12, 2002, there will be two breaks during the boat races. During these breaks, the waterway will be cleared and traffic will be allowed to pass through the zone as directed by the Coast Guard patrol commander. The break periods will begin at approximately 11 a.m. and 2:45 p.m. and will last approximately one hour each. Notifications of the safety zones and break periods will be made to the marine community by broadcast notices

to mariners and the event sponsors. The impacts on routine navigation are expected to be minimal.

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 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 may be small entities: The owners or operators of vessels intending to transit that portion of the Neches River adjacent to Port Neches Park, Port Neches, Texas, from 8 p.m. to 10 p.m. on May 11, 2002 and from 8 a.m. to 6 p.m. on May 12, 2002.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) The safety zone for the fireworks display will only be in effect for a short period of time, (2) there will be two breaks during the boat races. During these breaks the waterway will be cleared and traffic will be allowed to pass through the zone as directed by the Coast Guard patrol commander, and (3) notifications of the safety zones and break periods will be made to the marine community by broadcast notices to mariners and the event sponsors.

If you are a small business entity and are significantly affected by this regulation please contact LTJG Mike Kicklighter, Marine Safety Office Port Arthur, at (409) 723-6500.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so they could better evaluate its effects on them and participate in the rulemaking process.

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

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 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, so we discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 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 may 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. A "Categorical Exclusion Determination" is available 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 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. From 8 p.m. May 11 through 6 p.m. May 12, 2002, a new temporary § 165.T08-043 is added to read as follows:

§ 165.T08-043 Safety Zones; Port Neches Riverfest, Neches River, Port Neches, Texas.

(a) *Regulated Areas.* The following areas are safety zones:

(1) *Fireworks safety zone.* All waters of the Neches River, shore to shore,

adjacent to Port Neches Park, Port Neches, Texas, between the northern boundary at 30°00'00" N and the southern boundary at 29°59'42" N. These coordinates are based upon [NAD 83].

(2) *Boat race safety zone.* All waters of the Neches River, shore to shore, adjacent to Port Neches Park, Port Neches, Texas, between the northern boundary at 30°00'12" N and the southern boundary at 29°59'36" N. These coordinates are based upon [NAD 83].

(b) *Enforcement dates.* (1) The fireworks safety zone in paragraph (a)(1) of this section will be enforced from 8 p.m. to 10 p.m. on May 11, 2002.

(2) The boat race safety zone in paragraph (a)(2) of this section will be enforced from 8 a.m. to 6 p.m. on May 12, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into the safety zones in this section is prohibited unless authorized by the Captain of the Port, Port Arthur, or his designated representative.

(2) Vessels requiring entry into or passage through a safety zone in this section must request permission from the Captain of the Port, Port Arthur, or his designated representative. They may be contacted via VHF Channel 13 or 16, or via telephone at (409) 723-6500.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port, Port Arthur and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: April 22, 2002.

R.E. Walker,

Commander, U.S. Coast Guard, Acting Captain of the Port, Port Arthur.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP BALTIMORE 02-002]

RIN 2115-AA97

Security Zone; Potomac River, Washington Channel, Washington, DC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone