

(c) *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: May 30, 2000.

**R.E. Bennis,**

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

[FR Doc. 00-14508 Filed 6-7-00; 8:45 am]

BILLING CODE 4910-15-U

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-00-005]

RIN 2115-AA97

#### **Safety Zone: Coast Guard Activities New York Annual Fireworks Displays**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing five permanent safety zones for annual fireworks displays located on Sandy Hook Bay, Rondout Creek, Hempstead Harbor, the Arthur Kill, and the Hudson River. 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 a portion of Sandy Hook Bay, Rondout Creek, Hempstead Harbor, the Arthur Kill, and the Hudson River.

**DATES:** This rule is effective June 8, 2000.

**ADDRESSES:** 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 (CGD01-00-005) and are available for inspection or copying at Waterways Oversight Branch, room 204, Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, NY between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On April 26, 2000, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Coast Guard Activities New York Annual Fireworks Displays in the **Federal Register** (65 FR 24436). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

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**. This is due to the following reasons: They are locally supported, annual events with minimal impact on the waterways, the zones are only in affect for 1½ hours and vessels can be given permission to transit the zones except for about 45 minutes during this time, the public was additionally notified of the NPRM via the First Coast Guard District Local Notice to Mariners Number 019, dated May 9, 2000. Additionally, vessel traffic can transit around the safety zones with the exception of the locations in Sandy Hook Bay and Rondout Creek, vessels will not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the safety zones with the exception of the locations in Sandy Hook Bay and Rondout Creek. The sponsors of the displays held in Highlands, NJ and Kingston, NY reported they have not received any objections from the public for these annual displays dating back to 1997. The display in Highlands, NJ has been held in the same location for 5 years and the display in Kingston, NY has been held in the same location for 10 years.

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

The Coast Guard is establishing five permanent safety zones that will be activated for fireworks displays occurring at the same location and time on an annual basis. The five locations are Highlands, New Jersey in Sandy Hook Bay; Kingston, New York on Rondout Creek; Glen Cove, New York on Hempstead Harbor; Elizabeth, New Jersey on the Arthur Kill; and Yonkers, New York on the Hudson River. Establishing permanent safety zones by notice and comment rulemaking gives the public the opportunity to comment on the zones, provides better notice than promulgating temporary rules annually, and decreases the amount of annual paperwork required for these events. The Coast Guard has received no prior notice of any impact caused by the previous events.

The sizes of these safety zones were determined using National Fire Protection Association and New York City Fire Department standards for 5–12 inch mortars fired from a barge or shore, combined with the Coast Guard's knowledge of tide and current conditions in these areas. The five safety zones are:

##### *Clamfest Fireworks, Highlands, New Jersey, Sandy Hook Bay*

The Highlands Chamber of Commerce and Seastreak America sponsor this annual fireworks display. The safety zone in Sandy Hook Bay includes all waters of Sandy Hook Bay and the Shrewsbury River Channel within a 150-yard radius of the fireworks barge in approximate position 40°24'34" N 073°59'45" W (NAD 1983), about 140 yards south of Shrewsbury River Channel Lighted Buoy 9 (LLNR 35775). The regulation is effective annually from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on the Saturday before Father's Day. The safety zone closes a portion of southern Sandy Hook Bay and the Shrewsbury River Channel and will prevent marine traffic from transiting a portion of these two areas. It is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area.

##### *Kingston, New York Fireworks, Rondout Creek*

The city of Kingston, New York sponsors this annual fireworks display. The safety zone in Rondout Creek includes all waters of Rondout Creek between the Kingston-Port Ewen Bridge (mile 1.1) and the Kingston-US 9 Bridge (mile 1.3). The fireworks are fired from shore at the Kingston Municipal Docks. The regulation is effective annually from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on the last Sunday in June. The safety zone closes a portion of Rondout Creek and prevents marine traffic from transiting the area. It is needed to protect boaters from the hazards associated with fireworks launched from shore in the area.

##### *Glen Cove, New York July 4th Fireworks, Hempstead Harbor*

The city of Glen Cove sponsors this annual fireworks display. The safety zone in Hempstead Harbor includes all waters of Hempstead Harbor within a 360-yard radius of the fireworks barge in approximate position 40°51'58" N 073°39'34" W (NAD 1983), about 500 yards northeast of Glen Cove Breakwater Light 5 (LLNR 27065). The regulation is effective annually from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on July 1st, 2nd, 3rd, 4th, and 5th. The safety zone prevents

vessels from transiting a portion of Hempstead Harbor, 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 western 1,075 yards of the 1,435-yard wide Hempstead Harbor during the event. Additionally, vessels are not precluded from getting underway from public or private facilities at Glen Cove or Red Spring Point, NY, in the vicinity of this event.

*Yonkers, New York Fireworks, Hudson River*

The safety zone west of Yonkers includes all waters of the Hudson River within a 360-yard radius of the fireworks barge in approximate position 40°56'14.5" N 073°54'33" W (NAD 1983), about 475 yards northwest of Yonkers Municipal Pier, New York. The regulation is effective annually from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on July 4th and the third Saturday of September. If either event is canceled due to inclement weather, then this event will be held on July 5th and the third Sunday of September. The safety zone prevents vessels from transiting a portion of the Hudson River 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 western 715 yards and eastern 115 yards of the 1550 yard-wide Hudson River during the event. Additionally, vessels will not be precluded from mooring at or getting underway from any piers in the vicinity of the safety zone.

*Elizabeth, New Jersey July 4th Fireworks, Arthur Kill*

The city of Elizabeth sponsors this annual fireworks display. The safety zone on the Arthur Kill includes all waters of the Arthur Kill within a 150-yard radius of the fireworks land shoot in Elizabeth, New Jersey, in approximate position 40°38'50" N 074°10'58" W (NAD 1983), about 675 yards west of Arthur Kill Channel Buoy 20 (LLNR 36780). The regulation is effective annually from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on July 4th. If the event is canceled due to inclement weather, then this event will be held on July 5th. 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 shore in the area. Marine traffic will still be able to transit through the southern 90 yards of the Arthur Kill opposite the display site in Elizabeth, New Jersey during the event.

Additionally, vessels will not be precluded from mooring at or getting underway from any piers in the vicinity of the safety zone.

The effective period for each proposed safety zone is from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) However, vessels may enter, remain in, or transit through these safety zones during this time frame if authorized by the Captain of the Port New York, or designated Coast Guard patrol personnel on scene, as provided for in 33 CFR 165.23. Generally, blanket permission to enter, remain in, or transit through these safety zones will be given except for the 45-minute period that a Coast Guard patrol vessel is present.

#### Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rulemaking. No changes were made to this rulemaking.

#### 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).

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, and all of the zones are in areas where the Coast Guard expects insignificant adverse impact on all mariners from the zones' activation. The sponsors of the displays held in Highlands, NJ and Kingston, NY reported they have not received any objections from the public for these annual displays dating back to 1997. The display in Highlands, NJ has been held in the same location for 5 years and the display in Kingston, NY has been held in the same location for 10 years. The Coast Guard has not received any negative comments on these annual displays. Marine traffic will only be precluded from transiting around these safety zones in southern Sandy Hook Bay and Rondout Creek. There is sufficient open water for expected marine traffic to transit around the other three safety zones. There are no commercial maritime facilities that will be affected by these regulated areas. Vessels may also still transit through

Sandy Hook Bay, Hempstead Harbor, the Arthur Kill, and the Hudson River during these events. Vessels will not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the safety zones with the exception of the locations in Sandy Hook Bay and Rondout Creek. Additionally, marine traffic can plan their transits through Rondout Creek, Sandy Hook Bay, and the Shrewsbury River Channel around the time the Kingston, New York and Highlands, New Jersey safety zones are in effect. The marine community will have advance notice of these two events as they are annual events with local community support. Advance notifications will also be made to the local maritime community by the Local Notice to Mariners, marine information broadcasts, and facsimile broadcasts, if needed.

The size of these safety zones were determined using National Fire Protection Association and New York City Fire Department standards for 5–12 inch mortars fired from a barge or shore, combined with the Coast Guard's knowledge of tide and current conditions in these areas.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Sandy Hook Bay, Rondout Creek, Hempstead Harbor, the Arthur Kill, and the Hudson River 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: Vessel traffic can transit around the safety zones with the exception of the locations in Sandy Hook Bay and Rondout Creek. Vessels will not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the safety zones with the exception of the locations in Sandy Hook Bay and

Rondout Creek. The sponsors of the displays held in Highlands, NJ and Kingston, NY reported they have not received any objections from the public for these displays dating back to 1997. The display in Highlands, NJ has been held in the same location for 5 years and in Kingston, NY for 10 years. There are no commercial marine facilities that will be affected by any of these regulated areas. These are all annual events with local community support and vessels will normally be precluded from entering any of the zones for only a 45-minute period on an annual basis. Additionally, the Coast Guard has not received any negative reports from small entities affected by these displays.

#### 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. However, we received no requests for assistance from small entities.

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 Agricultural 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 1-800-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

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) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate

costs. This rule will not impose an unfunded mandate.

#### 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Environment

The Coast Guard considered the environmental impact of this 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. This rule fits paragraph 34(g) as it establishes five safety zones. 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 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. § 165.161 is revised to read as follows:

##### § 165.161 Safety Zones: Coast Guard Activities New York Annual Fireworks Displays.

(a) *Safety Zones.* The following areas are designated safety zones:

(1) *Clamfest Fireworks, Highlands, New Jersey, Sandy Hook Bay:*

(i) *Location.* All waters of Sandy Hook Bay within a 150-yard radius of the fireworks barge in approximate position 40°24'34" N, 073°59'45" W (NAD 1983), about 140 yards south of Shrewsbury River Channel Lighted Buoy 9 (LLNR 35775).

(ii) *Effective period.* Paragraph (a)(1)(i) is in effect annually from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on the Saturday before Father's Day.

(2) *Kingston, New York Fireworks, Rondout Creek Safety Zone:*

(i) *Location.* All waters of Rondout Creek between the Kingston-Port Ewen Bridge (mile 1.1) and the Kingston-US 9 Bridge (mile 1.3).

(ii) *Effective period.* Paragraph (a)(2)(i) is in effect annually from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on the last Saturday in June.

(3) *Glen Cove, New York July 4th Fireworks Safety Zone:*

(i) *Location.* All waters of Hempstead Harbor within a 360-yard radius of the fireworks barge in approximate position 40°51'58" N, 073°39'34" W (NAD 1983), about 500 yards northeast of Glen Cove Breakwater Light 5 (LLNR 27065).

(ii) *Effective period.* Paragraph (a)(3)(i) is in effect annually from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on July 1st, 2nd, 3rd, 4th, and 5th.

(4) *Yonkers, New York Fireworks Safety Zone:*

(i) *Location.* All waters of the Hudson River within a 360-yard radius of the fireworks barge in approximate position 40°56'14.5" N, 073°54'33" W (NAD 1983), about 475 yards northwest of Yonkers Municipal Pier, New York.

(ii) *Effective period.* Paragraph (a)(4)(i) is in effect annually from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on July 4th and the third Saturday of September. If the event is canceled due to inclement weather, then paragraph (a)(4)(i) is effective on July 5th and the third Sunday of September.

(5) *Elizabeth, New Jersey July 4th Fireworks, Arthur Kill, Safety Zone:*

(i) *Location.* All waters of the Arthur Kill within a 150-yard radius of the fireworks land shoot in Elizabeth, New Jersey, in approximate position 40°38'50" N, 074°10'58" W (NAD 1983), about 675 yards west of Arthur Kill Channel Buoy 20 (LLNR 36780).

(ii) *Effective period.* Paragraph (a)(5)(i) is in effect annually from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on July 4th. If the event is canceled due to inclement weather, then paragraph (a)(5)(i) is effective from 8 p.m. (e.s.t.) to 11 p.m. (e.s.t.) on July 5th.

(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: May 30, 2000.

**R.E. Bennis,**

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

[FR Doc. 00-14507 Filed 6-7-00; 8:45 am]

BILLING CODE 4910-15-U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IN117-1a, FRL-6708-2]

### Approval and Promulgation of Implementation Plans; Indiana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving nine negative declarations submitted by the State of Indiana on November 8, 1999, and January 10, 2000. Each of these negative declarations concerns sources located in Lake and Porter Counties, which are classified as a severe nonattainment area for the pollutant ozone. Each of the negative declarations indicates that the State has searched its emissions source inventory and permit files for Lake and Porter Counties and determined there are no sources with a potential to emit 25 tons per year or more of volatile organic compounds (VOC) in the following source categories: aerospace coating operations, industrial clean up solvents, industrial wastewater processes, offset lithographic operations, business plastics, automotive plastics, and synthetic organic chemical manufacturing industries (SOCMI) batch processes, reactors and distillation units.

**DATES:** This rule is effective on August 7, 2000, unless EPA receives adverse written comments by July 10, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18)),

Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the negative declarations are available for inspection at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Randolph O. Cano at (312) 886-6036 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Randolph O. Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR-18)), EPA, Region 5, Chicago, Illinois 60604, (312) 886-6036.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" is used we mean EPA.

### Table of Contents

- I. What is the background for this action?
- II. What are negative declarations and what is their purpose?
- III. What types of sources are covered by these negative declarations?
- IV. If new sources are constructed in Lake and Porter Counties, will the VOC emissions from these source categories be uncontrolled?
- V. EPA Rulemaking Action.
- VI. Administrative Requirements.
  - A. Executive Order 12866
  - B. Executive Order 13045
  - C. Executive Order 13084
  - D. Executive Order 13132
  - E. Regulatory Flexibility Act
  - F. Unfunded Mandates
  - G. Submission to Congress and the Comptroller General
  - H. National Technology Transfer and Advancement Act
  - I. Petitions for Judicial Review

### I. What Is the Background for This Action?

The Clean Air Act (Act), as amended in 1977, required States to adopt emission controls reflective of reasonably available control technology (RACT) for sources of VOC emissions in ozone nonattainment areas. Subsequently, EPA issued three sets of control technique guidelines (CTGs) documents, establishing a "presumptive norm" for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. EPA determined that an area's State Implementation Plan (SIP) approved attainment date established which RACT rules the State needed to adopt and implement and for which areas. In those areas where the State sought from

EPA an extension of the attainment date under section 172(a)(2) of the Act to as late as December 31, 1987, the Act as amended in 1977 required RACT for all CTG sources and for all major VOC non-CTG sources. The 1977 amendments to the Act defined as major any VOC non-CTG source with a potential to emit 100 tons per year or more of VOC emissions. Indiana sought and received such an extension from EPA for Lake and Porter Counties.

Congress amended the Act in 1990. The 1990 amendments to the Act reduced the size definition of major source to 25 tons per year or more of VOC emissions for sources located in severe ozone nonattainment areas. Section 182(b)(2) of the Act, as amended, requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the amended Act of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. These section 182(b)(2) RACT requirements are referred to as the RACT "catch-up" requirements.

Section 183 of the amended Act requires EPA to issue CTGs for 13 source categories by November 15, 1993. EPA published a CTG by this date for the following source categories—Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation, aerospace manufacturing coating operation, shipbuilding and ship repair coating operations, and wood furniture coating operation; however, EPA has not completed the CTGs for the remaining source categories. The amended Act requires States to submit rules for sources covered by a post-enactment CTG in accordance with a schedule specified in a CTG document.

The EPA created a CTG document as appendix E to the *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*. (57 FR 18070, 18077, April 28, 1992). In appendix E, EPA interpreted the Act to allow a State to submit a non-CTG rule by November 15, 1992, or to defer submittal of a RACT rule for sources that the State anticipated would be covered by a post-enactment CTG, based on the list of CTGs EPA expected to issue to meet the requirement in section 183. Appendix E states that if EPA fails to issue a CTG by November 15, 1993 (which it did for 11 source categories), the responsibility shifts to the State to