

(b) *Effective date.* This rule is effective from 11 a.m. EDT until 5 p.m. EDT on Monday, August 13th, 2001.

(c) *Regulations.* (1) The following area is designated as a Moving Safety Zone for the Tall Ships Challenge 2001 parade of tall ships: All waters in an area extending a distance of 100 yards ahead of the lead vessel in the parade, 100 yards abeam of each vessel in the parade, and 100 yards astern of the last vessel in the Tall Ships Challenge 2001 parade of tall ships. The Moving Safety Zone for the parade will begin at 11 a.m. on Monday, August 13th, 2001 in Muskegon Lake at approximate position 43°14'36" N, 086°15'44" W, and will remain in effect for the parade of tall ships past waypoint 43°14'07" N, 086°19'21" W, then outbound through Muskegon Lake Entrance Channel to the final parade waypoint in Lake Michigan at 43°13'11" N, 086°21'36" W. These coordinates are based upon North American Datum 1983 (NAD 83).

(2) All vessel operators shall comply with the instructions of the Coast Guard Captain of the Port Chicago or the designated on-scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers. Permission to deviate from the above rules must be obtained from the Captain of the Port Chicago or his representative by VHF/FM radio, Channel 9 or by telephone at (616) 204-2877.

Dated: June 21, 2001.

**James D. Hull,**

*Rear Admiral, U.S. Coast Guard, District Commander, Ninth Coast Guard District.*

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BILLING CODE 4910-15-U

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-01-074]

RIN 2115-AA97

#### Safety Zone; Firststar Fireworks Display, Milwaukee Harbor

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Firststar fireworks display on July 3, 2001. This safety zone 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. This safety zone is intended to restrict vessel

traffic from a portion of Milwaukee Harbor.

**DATES:** This temporary final rule is effective from 9:25 p.m. on July 3, 2001, until 10 p.m. on July 3, 2001.

**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 [CGD09-01-046] 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, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747-7155.

#### 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), 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 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 Milwaukee has determined firework 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 platforms will help ensure the safety of person and property at

these events and help minimize the associated risk.

The safety zone will be in effect on July 3 and 4, 2001, from 9:25 p.m. (CST) until 10 p.m. (CST). The safety zone will encompass all waters bounded by the arc of a circle with a 1000 foot radius with its center in approximate position 43°02.40 N, 087°53.50 W encompass all waters within 1000-yards of a fireworks barge located approximately 1000 ft offshore of Veterans Park, Milwaukee Harbor. 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 personnel. Entry into, transiting, or anchoring within the 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 proposed 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). We expect 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 that vessels will be restricted from the zone, and the zone is in an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 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 commercial vessels intending to transit a portion of an activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed zone is only in effect for few hours on the day of the event. Vessel traffic can safely pass outside the proposed safety zone during the event. Traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Milwaukee. Before the effective period, we will issue maritime advisories widely available to users of the Port of Milwaukee by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and 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 (Public Law 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 Milwaukee (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 proposed 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 proposed 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 costs. This proposed rule would not impose an unfunded mandate.

#### 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

The Coast Guard has 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 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 32(g) of Commandant Instruction M16475.1C, this proposed 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.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping 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 and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–917 is added to read as follows:

#### **§ 165.T09–917 Safety zone: Firstar fireworks display, Milwaukee, Harbor.**

(a) *Location.* The safety zone will encompass all waters bounded by the arc of a circle with a 1000 foot radius with its center in approximate position 43° 02.40 N, 087° 53.50 W encompass all waters within 1000-feet of a fireworks barge located approximately 1000 feet offshore of Veterans Park, Milwaukee Harbor.

(b) *Effective time and date.* This section is effective from 9:25 p.m. (local time) until 10 p.m. (local time) on July 3rd, 2001. In the event the fireworks display is cancelled due to inclement weather, this section is effective during these same times on July 4th, 2001. The Coast Guard Captain of the Port Milwaukee and the designated Patrol Commander have the authority to terminate this event at any time. 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 zone is prohibited unless authorized by the Coast Guard Captain of the Port Milwaukee, or his designated on scene representative.

Dated: June 6, 2001.

**M.R. Devries,**

*Commander, U.S. Coast Guard, Captain of the Port, Milwaukee.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-01-065]

RIN 2115-AA97

#### **Safety Zone; 4th of July Celebration, Weymouth, MA**

**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, July 3, 2001 in Weymouth, MA. The safety zone will temporarily close all waters of the Weymouth Fore River within a four hundred (400) yard radius of the fireworks barge. The safety zone prohibits entry into or movement within this portion of the Weymouth Fore River and is needed to protect the maritime public from the hazards posed by a fireworks display.

**DATES:** This rule is effective from 8:30 p.m. July 3, 2001 until 11:15 p.m. on July 3, 2001.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (junior grade) David Sherry, Marine Safety Office Boston, Waterways Management Division, at (617) 223-3000.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Conclusive information about this event was not provided to the Coast Guard until June 14, 2001, making it impracticable to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Any delay encountered in this regulation's effective date would be

contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of the Weymouth Fore River, Weymouth, Massachusetts, and provide for the safety of life on navigable waters. Additionally, this temporary safety zone is only for a 2 hour 45 minute long local event and should have negligible impact on vessel transits due to the fact that vessels can safely transit around the zone and that they are not precluded from using any portion of the waterway except the safety zone area itself.

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

This regulation establishes a safety zone on the waters of the Weymouth Fore River four hundred (400) yards around the fireworks barge located at 42°15'12" N, 070°56'45" W. The safety zone is in effect from 8:30 p.m. July 3, 2001 to 11:15 p.m. July 3, 2001. This safety zone prohibits entry into or movement within this portion of the Weymouth Fore River and is needed to protect the maritime public from the dangers posed by this event. Marine traffic may transit safely outside of the safety zone during the event. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

##### **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 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Weymouth Fore River during this event, the effect of this regulation will not be significant for several reasons: The minimal time that vessels will be restricted from the area, that vessels may safely transit outside of the safety zone, and advance notifications which will be made to the local maritime community by marine information broadcasts.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard 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 or anchor in a portion of the Weymouth Fore River from 8:30 p.m. July 3, 2001 until 11:15 p.m. July 3, 2001. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can safely pass outside of the safety zone during the event, the event is limited in duration, and the Coast Guard will issue maritime advisories before the effective period widely available to users of the Harbor by marine information broadcasts.

##### **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**

The Coast Guard analyzed this rule under Executive Order 13132 and has 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 costs. This rule would not impose an unfunded mandate.

##### **Taking of Private Property**

This 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.