

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.

## 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 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 pose 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. A rule with tribal implications has 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.

## Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, (34)(g), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

## 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.

## 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 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.

2. Add temporary § 165.T01-065 to read as follows:

#### § 165.T01-065 Safety zone: 4th of July celebration, Weymouth, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of the Weymouth Fore River within a four hundred (400) yard radius of the fireworks barge at position 42°15'12" N, 070°56'45" W.

(b) *Effective date.* This section is effective from 8:30 p.m. July 3, 2001 until 11:15 p.m. on July 3, 2001.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: June 19, 2001.

**B.M. Salerno,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-01-090]

**RIN 2115-AA97**

#### Safety Zone: Fireworks Display, Lewis Bay, Hyannis, MA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone within a five hundred (500) yard radius of the fireworks barge located in Lewis Bay, Hyannis, Massachusetts, on July 2, 2001. The safety zone is needed to

safeguard the public from possible hazards associated with a fireworks display. Entry into this zone will be prohibited unless authorized by the Captain of the Port, Providence, Rhode Island.

**EFFECTIVE DATE:** This rule is effective from 8 p.m. on July 2 until 10 p.m. on July 3, 2001.

**ADDRESSES:** Documents relating to this temporary final rule are available for inspection and copying at U.S. Coast Guard Marine Safety Office Providence, 20 Risho Avenue, E. Providence, RI. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Casey L. Chmielewski at Marine Safety Office Providence, (401) 435-2335.

#### 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 good cause exists for not publishing a NPRM. The sponsor of the event did not provide the Coast Guard with the final details for the event in sufficient time to publish a NPRM. The delay encountered if normal rulemaking procedures were followed would effectively cancel the event. Cancellation of this event is contrary to the public interest since the fireworks display is for the benefit of the public.

#### Background and Purpose

The Town of Barnstable is hosting a fireworks display in celebration of the 4th of July. This regulation establishes a safety zone in all waters within a five hundred (500) yard radius of the fireworks barge located approximately 1000 yards to the northeast of Dunbar Point, Hyannis, Massachusetts, approximate position 41°38.2' N, 070°15.8' W, on July 2, 2001 from 8 p.m. until 10 p.m., with an inclement weather date of July 3, 2001 from 8 p.m. until 10 p.m.. This safety zone is needed to protect the maritime community from possible hazards associated with a fireworks display. No vessel may enter the safety zone without permission of the Captain of the Port (COTP), Providence, Rhode Island.

#### 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