

scene patrol commander. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately, then proceed as directed. Members of the Coast Guard Auxiliary will also be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This section will be effective from 10 a.m. to 4 p.m. on Saturday, July 22, 1995, and thereafter annually on the third or fourth Saturday in July, at the same prescribed times, unless otherwise specified in the Coast Guard Local Notice to Mariners and a notice in the **Federal Register**.

Dated: May 1, 1995.

J.L. Linnon,

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

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33 CFR Part 165

[CGD01-95-031]

RIN 2115-AA97

Safety Zone: Macy's 1995 Fourth of July Fireworks, East River, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone for the annual Macy's Fourth of July Fireworks program in New York Harbor. The event will take place on Tuesday, July 4, 1995, from 6 p.m. until 11 p.m., on the East River. With the exception of certain vessels, which may enter designated portions of the safety zone, the East River will be temporarily closed to vessel transits. This safety zone is needed to protect mariners from the hazards associated with fireworks exploding in the area, and from the dangers associated with vessels operating with limited maneuverability in confined waters.

DATES: Comments must be received on or before June 12, 1995.

ADDRESSES: Comments should be mailed to U.S. Coast Guard Group, New York, Bldg. 108, Governors Island, New York 10004-5096, or may be delivered to the Planning and Readiness Division, Bldg. 108, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Any person wishing to visit the office must contact the Planning and Readiness Division at (212) 668-7934 to obtain advance

clearance due to the fact that Governors Island is a military installation with limited access.

FOR FURTHER INFORMATION CONTACT: Lieutenant R. Trabocchi, Chief, Planning and Readiness Division, Coast Guard Group/Captain of the Port New York (212) 668-7934.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. A 30 day comment period is deemed to be sufficiently reasonable notice to all interested persons. Since this proposed rulemaking is neither complex nor technical, a longer comment period is deemed to be unnecessary and contrary to the public interest. Any delay in publishing a final rule will effectively cancel this annual event. Cancellation of this annual event will be contrary to public interest.

Persons submitting comments should include their names and addresses, identify this notice (CGD01-95-031) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing; however, persons may request a public hearing by writing to the Planning and Readiness Division at the address under **ADDRESSES**. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information: The drafters of this notice are LT R. Trabocchi, Project Manager, Coast Guard Group/Captain of the Port New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Background and Purpose

Macy's has notified the Coast Guard that it intends to sponsor a fireworks program on the East River, New York, on July 4, 1995. This proposed regulation would establish a safety zone that will temporarily close the East River to vessel transits from 6 p.m. until 11 p.m. on July 4, 1995. This safety zone includes all waters of the East River, shore to shore, east of a line drawn from the Fireboat Station, at Battery Park, Manhattan, New York (40°42'16"N

latitude 074°01'07"W longitude) to the Governors Island Light at the northwest point of Governors Island, New York (40°41'35"N latitude 074°01'11"W longitude); north of a line drawn from the Brooklyn Battery Tunnel ventilator shaft at Governors Island, New York, to the northwest corner of Pier 6, Brooklyn, New York; south of a line drawn from Lawrence Point to Stony Point, and south of the Harlem River Footbridge. This safety zone also includes all waters of Newtown Creek, Brooklyn, New York, west of 073°57'37"W longitude; and, within the boundaries of the safety zone, all waters inward of the pierheads and bulkheads south of Roosevelt Island. There will be seven (7) fireworks barges between the southern tip of Roosevelt Island and the southern boundaries of this safety zone. No vessel may enter the safety zone without permission of the Captain of the Port New York. Certain designated vessels may enter this safety zone. These designated vessels are defined as follows: (1) Vessels less than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks may enter the zone north of the southern tip of Roosevelt Island. (2) Vessels greater than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks display, may enter the zone and take position at least 200 yards off the west bank of the East River between the Williamsburg Bridge and the charted position of Buoy 18 (LLNR 27335). These vessels may enter the zone and proceed to this area between 6:30 p.m. and 8 p.m., and must remain in position until released by the Captain of the Port New York. (3) The Staten Island and Coast Guard ferries may continue services to their ferry slips at the Battery, Manhattan, New York, but will not be permitted to transit east of the Coast Guard ferry slip, also known as Slip 6, at the Battery, Manhattan, New York. On scene patrol personnel will monitor the number of designated vessels entering into the viewing areas of the zone. If it becomes apparent that any additional spectator vessels in a specific viewing area will create a safety hazard, the Patrol Commander may prevent additional vessels from entering into that viewing area.

Vessels not meeting this criteria have a significant potential to create a hazardous condition in this area of the East River, due in great part, to the extremely strong currents. Restricting vessels in the safety zone as described above will minimize the threat posed by vessels with limited maneuverability. Continuing ferry services in the

southwestern portion of the safety zone will not create a hazard nor be threatened by the fireworks display because Vessel Traffic Service New York will monitor and control the transits of these ferries. Failure to allow these continued ferry services will have a negative impact on residents of Governors Island, New York, and those persons traveling to and from Manhattan at the end of the business holiday.

This safety zone covers the minimum area needed to ensure the protection of all vessels and fireworks handlers aboard the barges.

Regulatory Evaluation

This proposal 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. It has been exempted from review by the Office of Management and Budget 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(E) of the regulatory policies and procedures of DOT is unnecessary. This proposed safety zone will temporarily close the East River to vessel traffic. There is a regular flow of traffic through this area; however, due to the limited duration of the event; the extensive, advance advisories that will be made to allow the maritime community to schedule transits before and after the event; the fact that the event is taking place at a late hour on a Federal holiday, and that vessel traffic is expected to be somewhat reduced due to this Federal holiday falling on weekday not immediately preceeding or following a weekend, the impact of this regulation is expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard expects the impact of this proposal to be minimal. The Coast Guard certifies

under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M164475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the fireworks program will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulation

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—[AMENDED]

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 temporary section, 165.T01-031 is added to read as follows:

§ 165.T01-031 Safety Zone; Macy's 1995 Fourth of July Fireworks, East River, New York.

(a) *Location.* This safety zone includes all waters of the East River, shore to shore, east of a line drawn from the Fireboat Station, at Battery Park, Manhattan, New York (40°42'16" N latitude 074°01'07" W longitude) to the Governors Island Light at the northwest point of Governors Island, New York (40°41'35" N latitude 074°01'11' W

longitude); north of a line drawn from the Brooklyn Battery Tunnel ventilator shaft at Governors Island, New York, to the northwest corner of Pier 5, Brooklyn, New York, to the northwest corner of Pier 6, Brooklyn, New York; south of a line drawn from Lawrence Point to Stony Point, and south of the Harlem River Footbridge. This safety zone also includes all waters of Newtown Creek, Brooklyn, New York, west of 073°57'37" W longitude; and, within the boundaries of the safety zone, all waters inward of the pierheads and bulkheads south of Roosevelt Island.

(b) *Effective period.* This safety zone is effective from 6 p.m. until 11 p.m. on July 4, 1995, unless extended or terminated sooner by the Captain of the Port New York.

(c) *Regulations.* (1) *The general regulations contained in 33 CFR 165.23 apply to this safety zone.*

(2) No vessels will be allowed to enter the safety zone without permission of the Captain of the Port New York.

(3) The following vessels may enter the safety zone:

(i) Vessels less than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks may enter the zone north of the southern tip of Roosevelt Island.

(ii) Vessels greater than 20 meters (65.6 feet) in length, carrying persons for the sole purposes of viewing the fireworks display may enter the zone and take positions at least 200 yards off the west bank of the East River between 6:30 p.m. and 8 p.m., and must remain in position until released by the Captain of the Port New York.

(iii) The Staten Island and Coast Guard ferries may continue services to their ferry slips at the Battery, Manhattan, New York, but may not be permitted to transit east of the Coast Guard ferry slip, also known as Slip 6, at the Battery, Manhattan, New York.

(4) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 2, 1995.

T.H. Gilmour,

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

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