

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-99-094]

RIN 2115-AA97

Safety Zone: Staten Island Fireworks, Lower New York Bay and Raritan Bay

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary safety zones for Staten Island fireworks displays located on Lower New York Bay and Raritan Bay. 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 Lower New York Bay and Raritan Bay.

DATES: This temporary final rule is effective from 8:30 p.m. on August 28, 1999, until 10 p.m. September 5, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (718) 354-4193.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

SUPPLEMENTARY INFORMATION:**Regulatory History**

On July 7, 1999, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Staten Island Fireworks, Lower New York Bay and Raritan Bay in the **Federal Register** (64 FR 36633). The Coast Guard received no letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

Good cause exists for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date the Application for Approval of Marine Event was received, there was insufficient time to promulgate a NPRM and a temporary final rule that would be effective at least 30 days after it was published. The Coast Guard published an NPRM with a 45-day comment period, but this did not leave sufficient time to publish the temporary final rule 30 days before 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 Lower New York and Raritan Bays, and provide for the safety of life on navigable waters.

Background and Purpose

The fireworks programs are being sponsored by the Borough of Staten Island. This temporary final rule establishes two temporary safety zones. First, in all waters of Lower New York Bay within a 360-yard radius of the fireworks barge located in approximate position 40°35'11" N, 074°03'42" W (NAD 1983), about 350 yards east of South Beach, Staten Island. The safety zone is in effect from 8:30 p.m. until 10 p.m. on August 28, 1999. The rain date for this event is August 29, 1999, at the same time and place. Second, in all waters of Raritan Bay in the vicinity of the Raritan River Cutoff and Ward Point Bend (West) within a 240-yard radius of the fireworks barge in approximate position 40°30'04" N, 074°15'35" W (NAD 1983), about 240 yards east of Raritan River Cutoff Channel Buoy 2 (LLNR 36595). The temporary safety zone is in effect from 8:30 p.m. until 10 p.m. on September 4, 1999. The rain date of this event is September 5, 1999, at the same time and place. The temporary safety zones prevent vessels from transiting a portion of Lower New York Bay and Raritan Bay in the vicinity of the Raritan River Cutoff, Ward Point Bend (West). The temporary safety zones are needed to protect boaters from the hazards associated with fireworks launched from two barges in the area. Marine traffic will still be able to transit through Lower New York Bay during the event off South Beach on August 28, 1999. Marine traffic will still be able to transit through the eastern 140 yards of the 230-yard wide Ward Point Bend (West) during the event on September 4, 1999. Traffic that cannot transit through the closed Raritan River Cutoff may transit through Ward Point Bend (West) by using South Amboy Reach, Great Beds Reach, Ward Point Secondary Channel, and Ward Point Bend (East). Additionally, vessels are not precluded from mooring at or getting underway from any marinas or piers at Perth Amboy, New Jersey during the display in the Raritan River Cutoff. Public notifications will be made before the event by the Local Notice to Mariners and marine information broadcasts. The Coast Guard limited the comment period for this NPRM to 45 days because the temporary safety zones are only for one and a half hour long local events.

Discussion of Comments and Changes

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

Regulatory Evaluation

This temporary final 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. It has not been reviewed 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 temporary final 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 zone, and on the facts that vessels are not precluded from getting underway, or mooring at, the marinas and piers in Perth Amboy, New Jersey; that marine traffic will still be able to transit through Lower New York Bay during the display on August 28, 1999; that marine traffic will still be able to transit to the east of the zone on September 4, 1999; and that advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this temporary final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include 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.

For reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this temporary final rule under the

principles and criteria contained in Executive Order 12612 and has determined that this temporary final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104-4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain Federal mandates. A "Federal mandate" is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, \$100 million or more in any one year, the UMRA analysis is required. This temporary final rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

The Coast Guard considered the environmental impact of this temporary final rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1C, this temporary final 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.

List of Subjects in 33 CFR Part 165

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

Regulation

For the reasons set out in the preamble, the Coast Guard amends 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, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01-094 to read as follows:

§ 165.T01-094 Safety Zone: Staten Island Fireworks, Lower New York Bay and Raritan Bay.

(a) *Safety Zone A:* (1) *Location.* All waters of Lower New York Bay within a 360-yard radius of the fireworks barge

in approximate position 40°35'11" N., 074°03'42" W. (NAD 1983), about 350 yards east of South Beach, Staten Island.

(2) *Effective period.* This paragraph is effective from 8:30 p.m. until 10 p.m. on August 28, 1999. If the event is canceled for inclement weather, then this paragraph is effective from 8:30 p.m. until 10 p.m. on August 29, 1999.

(b) *Safety Zone B:* (1) *Location.* All waters of Raritan Bay in the vicinity of the Raritan River Cutoff and Ward Point Bend (West) within a 240-yard radius of the fireworks barge in approximate position 40°30'04" N., 074°15'35" W. (NAD 1983), about 240 yards east of Raritan River Cutoff Channel Buoy 2 (LLNR 36595).

(2) *Effective period.* This paragraph is effective from 8:30 p.m. until 10 p.m. on September 4, 1999. If the event is canceled for inclement weather, then this paragraph is effective from 8:30 p.m. until 10 p.m. on September 5, 1999.

(c) *Effective period.* This section is effective from 8:30 p.m. on August 28, 1999, until 10 p.m. September 5, 1999.

(d) *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: August 23 1999.

R.E. Bennis,

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

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA-81-167; FRL-6427-4]

Approval and Promulgation of State Implementation Plans; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision from the State of California demonstrating that the California Low Emission Vehicle (LEV) program qualifies as a

substitute for the Clean Air Act (CAA) Clean Fuel Fleet (CFF) vehicle program. The CAA requires states, in order to opt-out of the CFF vehicle program, to submit a substitute program for all or a portion of the program which consists of measures not otherwise required by the Act and that achieves at least equal long-term emission reductions of ozone-producing and air toxic emissions. EPA is taking these actions under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

EFFECTIVE DATE: This approval is effective on September 27, 1999.

ADDRESSES: The rulemaking docket for this notice is available for public inspection during normal business hours at EPA's Region IX office, Air Division, 75 Hawthorne Street, San Francisco, CA 94105-3901. A reasonable fee may be charged for copying parts of the docket.

Copies of related materials are also available for inspection at the following location: California Air Resources Board, 2020 L Street, Sacramento, California 95814-2815

FOR FURTHER INFORMATION CONTACT: Roxanne Johnson, EPA Region IX Air Planning Office, (415) 744-1225, or johnson.roxanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. EPA's Final Action

We are approving a SIP revision submitted by the State of California, consisting of Executive Order G-125-145 containing a substitute for the CAA CFF vehicle program, dated November 7, 1994.¹ The California Air Resources Board (CARB) Executive Order G-125-145 is a formal document which sets forth the substance of California's opt-out request and describes the legal authority under which the SIP revision was submitted.

Sections 182(c)(4)(A) and 246 of the Act require certain states, including California, to submit for EPA approval a SIP revision that includes measures to implement the Clean Fuel Fleet vehicle program. Section 182(c)(4)(B) of the CAA allows states to "opt-out" of the

¹ CARB submitted the Executive Order on November 7, 1994 which appended the State's May 11, 1994 SIP submittal. On November 13, 1992, CARB submitted a request to EPA to revise the SIP and opt-out of the CAA CFF vehicle program. In this submittal CARB committed to supply more detailed emission reduction data demonstrating equivalence to the CAA CFF vehicle program, and requested the EPA to conditionally approve the commitment pursuant to CAA section 110(k)(4). The conditional approval dated November 29, 1993, (published at 58 FR 62532) stated that California would be required to submit a SIP revision fulfilling the commitment by May 15, 1994.