

**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:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish 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:** Comments and related material must reach the Coast Guard on or before May 26, 2000.

**ADDRESSES:** You may mail comments and related material to Waterways Oversight Branch (CGD01-00-005), Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305. The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 205, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-00-005), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. The comment period for this proposed regulation is 30

days. This time period is adequate to allow local input because the event is highly publicized. The shortened comment period will allow the full 30 day publication requirement prior to the final rule becoming effective. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Waterways Oversight Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The Coast Guard proposes to establish 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 proposed 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.

**Discussion of Proposed Rule**

The proposed 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 proposed 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 proposed 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 proposed 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 proposed safety zone closes a portion of southern Sandy Hook Bay and the Shrewsbury River Channel and would 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 would not be precluded from mooring at or getting underway from any piers in the vicinity of the proposed safety zone.

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

The city of Elizabeth sponsors this annual fireworks display. The proposed 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 proposed 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 proposed 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 would not be precluded from mooring at or getting underway from any piers in the vicinity of the proposed 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.

This rule is being proposed to provide for the safety of life on navigable waters during the events, to give the marine community the opportunity to comment on the proposed zones, and to decrease the amount of annual paperwork required for these events.

### 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 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 proposed 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 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. 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 would 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 would not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the proposed 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 proposed 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 proposed 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 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 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 would not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic could transit around the safety zones with the exception of the locations in Sandy Hook Bay and Rondout Creek. Vessels would not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the proposed 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 would 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.

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 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

#### 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 E.O. 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 E.O. 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 E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under E.O. 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 considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. This proposed rule fits paragraph 34(g) as it establishes six 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 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 1.46.

2. Add § 165.161 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: March 28, 2000.

**R. E. Bennis,**

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

[FR Doc. 00-10443 Filed 4-21-00; 4:20 pm]

BILLING CODE 4910-15-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD 05-00-004]

RIN 2115-AA97

#### **Safety Zone; Transit of S/V Amerigo Vespucci, Chesapeake Bay, Baltimore, MD**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary moving safety zone in the Chesapeake Bay and the Port of Baltimore, Maryland during the transit of the sailing vessel *Amerigo Vespucci* through those waters. This action is necessary to provide for the safety of life on navigable waters during the vessel's transit. This action will restrict vessel traffic in portions of the Chesapeake Bay and the Port of Baltimore.

**DATES:** Comments and related material must reach the Coast Guard on or before May 16, 2000.

**ADDRESSES:** You may mail comments and related material to Commander, U.S. Coast Guard Activities, 2401 Hawkins Point Road, Baltimore, Maryland 21226-1791, or deliver them to the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Commander, U.S. Coast Guard Activities, 2401 Hawkins Point Road, Baltimore, Maryland 21226-1791 maintains the public docket for this rulemaking. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Warrant Officer Ron Houck, Port Safety and Security Section, at (410) 576-2674.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

We encourage you to participate in this rulemaking by submitting

comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05-00-004), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. The comment period for this proposed regulation is 20 days. This time period is adequate to allow local input because the event is highly publicized. The shortened comment period will allow the full 30-day publication requirement prior to the final rule becoming effective. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### **Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

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

The sailing vessel *Amerigo Vespucci* is planning to transit the waters of the Chesapeake Bay enroute to the Port of Baltimore, Maryland on June 21, 2000 and enroute from the Port of Baltimore, Maryland on June 24, 2000. The transits of this 330-foot sailing vessel are expected to attract a large fleet of spectator vessels. The purpose of these regulations is to promote maritime safety and protect the sailing vessel and the boating public during these transits by establishing a safety buffer around the sailing vessel.

##### **Discussion of Proposed Rule**

The Coast Guard proposes establishing a temporary moving safety zone around the 330-foot sailing vessel, *Amerigo Vespucci*, during her transit of Chesapeake Bay enroute to the Port of Baltimore, Maryland on June 21, 2000 and enroute from the Port of Baltimore on June 24, 2000. The safety zone will include all waters within 150 yards ahead of or 50 yards abeam or astern of the vessel while she is transiting the area. No vessels will be allowed to enter or navigate within this area unless authorized by the Captain of the Port.

##### **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 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 proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

These regulations are limited in duration, affect only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this proposed 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 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 vessels intending to operate or anchor in portions of the Chesapeake Bay and the Port of Baltimore, Maryland. The regulations would not have a significant impact on a substantial number of small entities for the following reasons: the restrictions are limited in duration, affect only limited areas, and will be well publicized to allow mariners to make alternative plans for transiting the affected areas.

If you think that your business, organization or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed rule would economically affect it.