



Dated: June 27, 2000.

R.E. Bennis,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-00-015]

RIN 2115-AA97

Safety Zone: Staten Island Fireworks, Arthur Kill

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary safety zones on the Arthur Kill for two Borough of Staten Island Fireworks displays. 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 on a portion of the Arthur Kill.

DATES: This rule is effective July 2, 2000 until September 3, 2000.

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 (CGD01-00-015) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 24, 2000, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Staten Island Fireworks, Arthur Kill in the **Federal Register** (65 FR 21686). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. On May 4, 2000, we published a correction notice in the **Federal Register** (65 FR 25980). This

corrected the position of the fireworks barge location in the Arthur Kill.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This is due to the following reasons: they are locally supported, annual events, the zones are only in effect for 1½ hours, commercial facilities in the Arthur Kill and the Sandy Hook Pilots Association were notified of this proposal by Local Notice to Mariners number 019 and 023, the NPRM and chart of the area were also e-mailed to the Hudson River Pilots Association, recreational vessels will be able to transit through the western 50 yards of the Arthur Kill during the event, recreational vessels will not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the safety zone, and advance notifications which will be, and have been made to the local maritime community by the Local Notice to Mariners, and marine information broadcasts. Additionally, commercial vessels will normally be precluded from entering the zone for only a 45-minute period during the effective period of the safety zone.

Background and Purpose

The Coast Guard is establishing a temporary safety zone in all waters of the Arthur Kill, Ward Point Bend (West), and the Raritan River Cutoff, within a 300-yard radius of the fireworks barge in approximate position 40°30'18" N 074°15'30" W (NAD 1983), about 250 yards northwest of Raritan Bay Channel Buoy 60 (LLNR 36319). The safety zone is in effect from 8:15 p.m. (e.s.t.) until 9:45 p.m. (e.s.t.) on July 2, and September 2, 2000. If either event is cancelled due to inclement weather, then this safety zone will be effective from 8:15 p.m. (e.s.t.) until 9:45 p.m. (e.s.t.) on July 3, and September 3, 2000. The safety zone prevents vessels from transiting a portion of the Arthur Kill, Ward Point Bend (West), and the Raritan River Cutoff for approximately 45 minutes of the 90 minute long event, and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Public notifications have been and will be made prior to the events via local notice to mariners, and marine information broadcasts.

Discussion of Comments and Changes

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

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).

We expect 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 Arthur Kill during the event, the effect of this regulation will not be significant for several reasons: commercial facilities in the Arthur Kill and the Sandy Hook Pilots Association were notified of this event by Local Notice to Mariners number 019 and 023, the NPRM and chart of the area were also e-mailed to the Hudson River Pilots Association, recreational vessels will be able to transit through the western 50 yards of the Arthur Kill during the event, recreational vessels will not be

precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the safety zone, and advance notifications which have been and will be made to the local maritime community by the Local Notice to Mariners, and marine information broadcasts. Additionally, commercial vessels will normally be precluded from entering the zone for only a 45-minute period during the effective period of the safety zone.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department Standards for 10 inch mortars fired from a barge, combined with the Coast Guard's knowledge of tide and current conditions in the area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 might be small entities: the owners or operators of vessels intending to transit a portion of the Arthur Kill, Ward Point Bend (West), and the Raritan River Cutoff during the time this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: commercial facilities in the Arthur Kill and the Sandy Hook Pilots Association were notified of this rule by the Local Notice to Mariners numbers 019 and 023, the NPRM and chart of the area were also e-mailed to the Hudson River Pilots Association, recreational vessels will be able to transit through the western 50 yards of the Arthur Kill during these times. Recreational vessels will not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the safety zone. Additionally, commercial vessels will normally be precluded from entering the zone for only a 45-minute period during the effective period of the safety zone.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. However, we received no requests for assistance from small entities.

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 Agricultural 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 rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this 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 unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will 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

We have 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. 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 temporary § 165.T01-015 to read as follows:

§ 165.T01-015 Safety Zone: Staten Island Fireworks, Arthur Kill.

(a) *Location.* The following area is a safety zone: All waters of the Arthur Kill within a 300-yard radius of the fireworks barge in approximate position 40°30'18" N 074°15'30" W (NAD 1983), about 250 yards northwest of Raritan Bay Channel Buoy 60 (LLNR 36319).

(b) *Enforcement Period.* This section will be enforced from 8:15 p.m. (e.s.t.) until 9:45 p.m. (e.s.t.) on July 2, and September 2, 2000. If the event is cancelled due to inclement weather, this section will be enforced from 8:15 p.m. (est) until 9:45 p.m. (est) on July 3, and September 3, 2000.

(c) *Effective Date.* This section is effective on July 2, 2000 until September 3, 2000.

(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

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: June 28, 2000.

R.E. Bennis,

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

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6730-8]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Texas has applied for Final authorization of the changes to its Hazardous Waste Program under the Resource Conservation and Recovery Act. (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize the State of Texas's changes to their hazardous waste program will take effect as provided below. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on September 11, 2000 unless EPA receives adverse written comment by August 14, 2000. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Written comments, referring to Docket Number TX-00-01, should be

sent to Alima Patterson Region 6 Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 1145 Ross Avenue, Dallas, Texas 75202-2733. Copies of the Texas program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: Texas Natural Resource Conservation Commission, 12100 Park S. Circle, Austin TX 78753-3087, (512) 239-1121 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-6444.

FOR FURTHER INFORMATION CONTACT:

Alima Patterson (214) 665-8533.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal Hazardous Waste Program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 CFR parts 124, 260-266, 268, 270, 273, and 279.

B. What Is the Effect of Today's Authorization decision?

The effect of this decision is that a facility in Texas subject to RCRA will now have to comply with the authorized State requirements (in RCRA Cluster VI listed in this document) instead of the equivalent Federal requirements in order to comply with RCRA. Texas has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to: (1) do inspections, and require monitoring, tests, analyses or reports; (2) enforce RCRA requirements and suspend or revoke permits; and (3) take enforcement actions regardless of whether the State has taken its own actions. This action does not impose additional requirements on the regulated community because the regulations for which Texas is being