

## Background and Purpose

This temporary rule is necessary to ensure the safety of the maritime community during setup, loading and firing operations of fireworks in conjunction with the City of Toledo Fireworks. Entry into the safety zone without permission of the Captain of the Port is prohibited. The Captain of the Port may be contacted via Coast Guard Station Toledo on VHF-FM Channel 16.

## 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 this rule 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). This finding is based on the historical lack of vessel traffic at this time of year.

## 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 safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for less than one day when vessel traffic can pass safely around the safety zone.

## Assistance for Small Entities

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), assistance to small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process is available upon request. 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 Agriculture 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 having first provided the funds to pay those 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 E.O. 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 E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

## Protection of Children

We have analyzed this 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

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (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 for inspection or copying where indicated under **ADDRESSES**.

## List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 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; and 33 CFR 1.05-1(g), 6.04-6, and 160.5; and 49 CFR 1.46.

2. A new temporary § 165.T09-080 is added to read as follows:

### § 165.T09-080 Safety zone: Lake Erie, Maumee River, Ohio.

(a) *Location.* A temporary safety zone is established for the waters and adjacent shoreline extending from the bow of the museum ship SS WILLIS B. BOYER then NNE to the south end of the City of Toledo Street, Harbors and Bridges Building then SW to the red nun bouy #64 then SSE to the museum ship SS WILLIS B. BOYER. A triangle as formed by positions 41° 38' 35" N, 083° 31' 54" W; 41° 38' 51" N, 083° 31' 50" W; 41° 38' 48" N, 083° 31' 58" W. All nautical positions are based on North American Datum of 1983.

(b) *Effective dates.* This regulation is effective from 8:30 a.m. to 10 p.m., Sept 3, 2000.

(c) *Restrictions.* In accordance with the general regulations in section 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: August 18, 2000.

**David L. Scott,**

*Commander, U.S. Coast Guard, Captain of the Port.*

[FR Doc. 00-22210 Filed 8-29-00; 8:45 am]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

[CGD01-00-206]

RIN 2115-AA97

### Safety Zone; Fireworks Display, Rockaway Beach, NY

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for

a fireworks display located on the Atlantic Ocean. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Atlantic Ocean.

**DATES:** This rule is effective from 8 p.m. (e.s.t.) on September 3, 2000 until 9:30 p.m. (e.s.t.) on September 4, 2000.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket (CGD01-00-206) 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**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Good cause exists for not publishing an NPRM due to the fact that the Application for Approval of Marine Event was received too late to permit sufficient time to draft and publish an NPRM. Further, it is a local event with minimal impact on the waterway, vessels may continue to transit through the Atlantic Ocean near Rockaway Beach during the event, and permission may be granted to transit the zone for all but approximately 15 minutes of the 1½ hour event. Additionally, vessels would not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone; there are no commercial facilities in the vicinity of the zone. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to close the waterway and protect the maritime public from the hazards associated with this fireworks display.

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: it is a local event with minimal impact on the waterway, vessels may still transit through the Atlantic Ocean near Rockaway Beach during the event, and permission may be granted to transit the zone for all but approximately 15 minutes of the 1½

hour event. Additionally, vessels would not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone; there are no commercial facilities in the vicinity of the zone.

**Background and Purpose**

The Coast Guard received an application to hold a fireworks program on the waters of the Atlantic Ocean. This regulation establishes a safety zone in all waters of the Atlantic Ocean within a 360-yard radius of the fireworks barge in approximate position 40°34'29" N 073°50'00" W (NAD 1983), about 335 yards off Rockaway Beach at 116th street. The safety zone is in effect from 8 p.m. (e.s.t.) until 9:30 p.m. (e.s.t.) on Sunday, September 3, 2000. If the event is cancelled due to inclement weather, then this section is effective from 8 p.m. (e.s.t.) until 9:30 p.m. (e.s.t.) on Monday, September 4, 2000. The safety zone prevents vessels from transiting a portion of the Atlantic Ocean 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 Atlantic Ocean near Rockaway Beach during this event. Additionally, vessels would not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone; there are no commercial facilities in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners.

**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 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, the ability of vessels to transit through the Atlantic Ocean near Rockaway Beach during the event, the ability of vessels to moor at or get underway from recreational piers in the vicinity of the zone during the event, the absence of commercial facilities in the vicinity of

the zone, and the advance notifications which will be made.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 12" 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 may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Atlantic Ocean during the times 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: it is a local event with minimal impact on the waterway, vessels may continue to transit through the Atlantic Ocean near Rockaway Beach during the event, and permission may be granted for vessels to transit the zone for all but approximately 15 minutes of the ½ hour event. Additionally, vessels would not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone during the event; there are no commercial facilities in the vicinity of the zone. Before the effective period, we will publish this event in the Local Notice to Mariners, which is widely available to users of the waterway.

**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. Small entities were notified of this marine event by its publication in the First Coast Guard District Local Notice to Mariners #33 dated August 15, 2000.

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 Agriculture 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

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 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 discussed in the preamble, the Coast Guard amends 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.T01-206 to read as follows:

#### § 165.T01-206 Safety Zone; Fireworks Display, Rockaway Beach, NY.

(a) *Location.* The following area is a safety zone: All waters of the Atlantic Ocean within a 360-yard radius of the fireworks barge in approximate position 40°34'29" N 073°50'00" W (NAD 1983), about 335 yards off Rockaway Beach at 116th street.

(b) *Effective period.* This section is effective from 8 p.m. (e.s.t.) until 9:30 p.m. (e.s.t.) on September 3, 2000. If the event is cancelled due to inclement weather, then this section is effective from 8 p.m. (e.s.t.) until 9:30 p.m. (e.s.t.) on September 4, 2000.

(c) *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 18, 2000.

**R.E. Bennis,**

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

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**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-00-079]

RIN 2115-AA97

#### Safety Zone; Lake Erie, Maumee River, Ohio

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Maumee River, Rossford, in the state of Ohio. This zone restricts the entry of vessels into the area designated for the Rossford fireworks display. This temporary safety zone is necessary to protect mariners in case of accidental misfire of fireworks mortar rounds. Entry of vessels into this zone is prohibited unless specifically authorized by the Captain of the Port. The Captain of the Port can be reached via Coast Guard Station Toledo on VHF channel 16.

**DATES:** This rule is effective from 2 p.m., until 10 p.m., September 2, 2000.

**ADDRESSES:** The U.S. Coast Guard Marine Safety Office in Toledo, Ohio maintains the public docket for this rule. Documents identified in this rule will be available for public copying and inspection between 9:30 a.m. and 2 p.m., Monday through Friday, except federal holidays. The Marine Safety Office is located at 420 Madison Ave, Suite 700, Toledo, Ohio 43604; (419) 259-6372.

**FOR FURTHER INFORMATION CONTACT:** Chief Marine Science Technician Michael Pearson, Asst. Chief of Port Operations, Marine Safety Office, 420 Madison Ave, Suite 700, Toledo, Ohio 43604; (419) 259-6372.

**SUPPLEMENTARY INFORMATION:** We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM.

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**. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to public interest because immediate action is necessary to protect the maritime public and other persons from the hazards associated with fireworks displays. We had insufficient time to publish a Notice of Proposed