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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-01-002]

RIN 2115-AA97

#### Safety Zone: Captain of the Port Detroit Zone

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish safety zones for annual fireworks displays located in the Captain of the Port Detroit Zone. This action is necessary to provide for the safety of life and property on navigable waters during each event. This action is intended to restrict vessel traffic in a portion of the Captain of the Port Detroit Zone.

**DATES:** Comments must be received on or before May 4, 2001.

**ADDRESSES:** Comments may be mailed or delivered to: Commanding Officer, U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Avenue, Detroit, MI 48207. Marine Safety Office Detroit 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 MSO Detroit between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ensign Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave., Detroit, MI 48207, (313) 568-9558.

#### 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 on this rulemaking (CGD09-01-002), indicate the specific section of this proposal to which each comment applies, and give the reason(s) for each comment. Please submit all comments

and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for photocopying and electronic filing. If you would like to know they reached us, please enclose a stamped, self-addressed envelope or postcard.

The Coast Guard will consider all comments 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 request a public meeting by writing to MSO Detroit at the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, the Coast Guard will hold a public meeting at a time and place announced by a later notice in the **Federal Register**.

##### Background and Purpose

The Coast Guard proposes to establish 23 permanent safety zones that will be activated for fireworks displays occurring annually at the same location. The 23 proposed locations are New Baltimore City Park, Lake St. Clair—Anchor Bay; 1000 yards east of Jefferson Beach Marina, Lake St. Clair; Ford's Cove, Lake St. Clair; the Brownstown Wave Pool, Lake Erie; St. Clair City Park, St. Clair River; DNR Boat Launch at the mouth of the Ausable River; Port Austin Breakwall, Lake Huron; breakwall between Oak & Van Alstyne St., Detroit River; 300 yards east of Grosse Pointe Farms, Lake St. Clair; Caseville breakwall, Saginaw River; between Algonac and Russell Island, St. Clair River—North Channel; South Harbor Breakwall, Lake Huron; 1000 yards east of Veterans Memorial Park, St. Clair Shores, Lake St. Clair; anchored 300 yards east of 223 Huron Ave; Black River; anchored 400 yards east of the Grosse Pointe Yacht Club seawall, Lake St. Clair; 300 yards east of the breakwall at Lexington, Lake Huron; anchored at the northern end of Mud Island, Ecorse Channel; Grosse Ile Yacht Club deck, Detroit River; anchored 200 yards east of Trenton, Trenton Channel; anchored 400 yards east of Belle Maer Harbor, Lake St. Clair—Anchor Bay; Tawas City Pier, Lake Huron; anchored 500 yards east of Marine City, St. Clair River; 600 yards off Jefferson Beach Marina, Lake St. Clair.

Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard associated with these events, the Captain of the Port has determined that fireworks launches in close proximity to watercraft pose a significant risk to public safety and property. The likely

combination of large numbers of inexperienced recreational boaters, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement within a 300 yard radius of the fireworks launch platforms will help ensure the safety of persons and property at these events and help minimize the associated risk.

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 not previously received notice of any impact caused by these events.

##### Discussion of Proposed Rule

The proposed size of these safety zones was determined using National Fire Protection Association and local area fire department standards, combined with the Coast Guard's knowledge of waterway conditions in these areas.

Pre-existing rules for marine fireworks events listed in 33 CFR 100.901 remain in effect for the International Freedom Festival and for the Bay City Fireworks. These previous regulations have proven effective for controlling vessel traffic in the regulated areas during these annual marine fireworks events. This proposed rule seeks to provide the same high levels of protection for other area marine fireworks events.

The Coast Guard believes these new regulations will not pose any new problems for commercial vessels transiting the area. In the unlikely event that shipping is affected by these new regulations, commercial vessels may request permission from the Captain of the Port Detroit to transit through the safety zone. No commercial shipping lanes will be impacted as a result of this rulemaking.

The Coast Guard will announce the exact times and dates for these events by publishing a Notice of Implementation in the **Federal Register** as well as in the Ninth Coast Guard District Local Notice to Mariners, marine information broadcasts, and, for those who request it from Marine Safety Office Detroit, by facsimile (fax).

##### 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 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). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This determination 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 to mariners from the zones' activation.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant 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 commercial vessels intending to transit a portion of an activated safety zone.

These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed zone is only in effect for few hours on the day of the event on an annual basis. Vessel traffic can safely pass outside the proposed safety zones during the events. In cases where traffic congestion is greater than expected and blocks shipping channels, traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Detroit. Before the effective period, the Coast Guard will issue maritime advisories widely available to users who might be in the affected area by publication in the **Federal Register** and the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts and facsimile broadcasts may also be made. Additionally, the Coast

Guard has not received any negative reports from small entities affected during these displays in previous years.

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 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. 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 Marine Safety Office Detroit (see **ADDRESSES**.)

### 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 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 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 Executive Order 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 Executive Order 12988, Civil Justice Reform, to minimize litigation,

eliminate ambiguity, and reduce burden.

### Protection of Children

The Coast Guard has analyzed this proposed 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

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 32(g) of Commandant Instruction M16475.1C, this proposed 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 record keeping 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 and 160.5; 49 CFR 1.46.

2. Add § 165.907 to read as follows:

#### § 165.907 Safety zones: annual fireworks events in the captain of the Port Detroit Zone.

(a) Safety Zones. The following areas are designated safety zones:

(1) Bay-Rama Fishfly Festival, New Baltimore, MI:

(i) Location. All waters off New Baltimore City Park, Lake St. Clair—Anchor Bay bounded by the arc of a circle with a 300-yard radius with its center located at approximate position 42°41' N, 082°44' W (NAD 1983).

(ii) Expected Date. One day early in June.

(2) Jefferson Beach Marina Fireworks, St. Clair Shores, MI:

(i) Location. All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°32' N, 082°51' W (NAD 1983), about 1000 yards east of Jefferson Beach Marina.

(ii) Expected Date. One day in the last week of June.

(3) Sigma Gamma Assoc., Grosse Pointe Farms, MI:

(i) Location. The waters off Ford's Cove, Lake St. Clair bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°27' N, 082°52' W (NAD 1983).

(ii) Expected Date. One day in the last week of June.

(4) Lake Erie Metro Park Fireworks:

(i) Location. The waters off the Brownstown Wave Pool area, Lake Erie bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°03' N, 083°11' W (NAD 1983).

(ii) Expected Date. One day in the first week of July.

(5) City of St. Clair Fireworks:

(i) Location. The waters off St. Clair City Park, St. Clair River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°49' N, 082°29' W (NAD 1983).

(ii) Expected Date. One day in the first week of July.

(6) Oscoda Township Fireworks:

(i) Location. The waters off the DNR Boat Launch at the mouth of the Ausable River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 44°19' N, 083°25' W (NAD 1983).

(ii) Expected Date. One day in the first week of July.

(7) Port Austin Fireworks:

(i) Location. The waters off the Port Austin Breakwall, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°03' N, 082°40' W (NAD 1983).

(ii) Expected Date. One day in the first week of July.

(8) City of Wyandotte Fireworks, Wyandotte, MI:

(i) Location. The waters off the breakwall between Oak & Van Alstyne St., Detroit River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°12' N, 083°09' W (NAD 1983).

(ii) Expected Date. One day in the first week of July.

(9) Grosse Pointe Farms Fireworks, Grosse Pointe Farms, MI:

(i) Location. All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°23' N, 082°52' W (NAD 1983), about 300 yards east of Grosse Pointe Farms.

(ii) Expected Date. One day in the first week of July.

(10) Caseville Fireworks, Caseville, MI:

(i) Location. The waters off the Caseville breakwall, Saginaw River

bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°55' N, 083°17' W (NAD 1983).

(ii) Expected Date. One day in the first week of July.

(11) Algonac Pickerel Tournament Fireworks, Algonac, MI:

(i) Location. All waters of the St. Clair River within a 300-yard radius of the fireworks barge in approximate position 42°37' N, 082°32' W (NAD 1983), between Algonac and Russell Island, St. Clair River—North Channel.

(ii) Expected Date. One day in the first week of July.

(12) Port Sanilac Fireworks, Port Sanilac, MI:

(i) Location. The waters off the South Harbor Breakwall, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°25' N, 082°31' W (NAD 1983).

(ii) Expected Date. One day in the first week of July.

(13) St. Clair Shores Fireworks, St. Clair Shores, MI:

(i) Location. All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°32' N, 082°51' W (NAD 1983), about 1000 yards east of Veterans Memorial Park (off Masonic Rd.), St. Clair Shores.

(ii) Expected Date. One day in the first week of July.

(14) Port Huron 4th of July Fireworks, Port Huron, MI:

(i) Location. All waters of the Black River within a 300-yard radius of the fireworks barge in approximate position 42°58' N, 082°25' W (NAD 1983), about 300 yards east of 223 Huron Ave., Black River.

(ii) Expected Date. One day in the first week of July.

(15) Grosse Pointe Yacht Club 4th of July Fireworks, Grosse Pointe Shores, MI:

(i) Location. All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°25' N, 082°52' W (NAD 1983), about 400 yards east of the Grosse Pointe Yacht Club seawall, Lake St. Clair.

(ii) Expected Date. One day in the first week of July.

(16) Lexington Independence Festival Fireworks, Lexington, MI:

(i) Location. All waters of Lake Huron within a 300-yard radius of the fireworks barge in approximate position 43°13' N, 082°30' W (NAD 1983), about 300 yards east of the Lexington breakwall, Lake Huron.

(ii) Expected Date. One day in the first week of July.

(17) City of Ecorse Water Festival Fireworks, Ecorse, MI:

(i) Location. All waters of the Ecorse Channel within a 300-yard radius of the fireworks barge in approximate position 42°14' N, 083°09' W (NAD 1983), at the northern end of Mud Island, Ecorse.

(ii) Expected Date. One day in the first week of July.

(18) Grosse Ile Yacht Club Fireworks:

(i) Location. The waters off the Grosse Ile Yacht Club Deck, Detroit River bounded by the arc of a circle with a 300-yard radius with its center approximately located at latitude 42°05' N, 083°09' W (NAD 1983).

(ii) Expected Date. One day in the first week of July.

(19) Trenton Fireworks Display, Trenton, MI:

(i) Location. All waters of the Trenton Channel within a 300-yard radius of the fireworks barge in approximate position 42°09' N, 083°10' W (NAD 1983), about 200 yards east of Trenton, in the Trenton Channel.

(ii) Expected Date. One day in the first week of July.

(20) Belle Maer Harbor 4th of July Fireworks, Harrison Township, MI:

(i) Location. All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°36' N, 082°47' W (NAD 1983), about 400 yards east of Belle Maer Harbor, Lake St. Clair—Anchor Bay.

(ii) Expected Date. One day in the first week of July.

(21) Tawas City 4th of July Fireworks, Tawas, MI:

(i) Location. The waters off the Tawas City Pier, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 44°13' N, 083°30' W (NAD 1983).

(ii) Expected Date. One day in the first week of July.

(22) Maritime Day Fireworks, Marine City, MI:

(i) Location. All waters of the St. Clair River within a 300-yard radius of the fireworks barge in approximate position 42°43' N, 082°29' W (NAD 1983), about 500 yards east of Marine City, St. Clair River.

(ii) Expected Date. One day in the second weekend of August.

(23) Venetian Festival Boat Parade & Fireworks, St. Clair Shores, MI:

(i) Location. All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°28' N, 082°52' W (NAD 1983), about 600 yards off Jefferson Beach Marina, Lake St. Clair.

(ii) Expected Date. One day in the second weekend of August.

(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. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) The safety zones in this regulation are outside navigation channels and will not adversely affect shipping. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Detroit to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Detroit on Channel 16, VHF-FM.

(c) Effective Period. The Captain of the Port Detroit will publish at least 15 days in advance a Notice in the **Federal Register** as well as in the Ninth Coast Guard District Local Notice to Mariners the dates and times this section is in effect.

Dated: March 23, 2001.

**S.P. Garrity,**

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

[FR Doc. 01-8188 Filed 4-3-01; 8:45 am]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-01-009]

RIN 2115-AA97

#### **Tall Ships Challenge 2001, Moving Safety Zone, Muskegon Lake, Muskegon, MI**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a Moving Safety Zone during the Tall Ships Challenge 2001 parade of tall ships in Muskegon Lake and vicinity, Muskegon, Michigan, from 11 a.m. until 5 p.m. on Monday, August 13, 2001. These regulations are necessary to ensure the safe navigation of vessels and the safety of life and property during periods of heavy vessel traffic.

**DATES:** Comments must reach the Coast Guard on or before June 4, 2001.

**ADDRESSES:** You may mail comments and related material to Coast Guard Marine Safety Detachment (MSD) Grand Haven (CGD09-01-009), 650 S. Harbor

Drive, Grand Haven, Michigan 49417. Coast Guard MSD Grand Haven 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 available for inspection or copying at Coast Guard MSD Grand Haven between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT David Berliner, Supervisor, Marine Safety Detachment Grand Haven (616) 850-2580.

#### **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 (CGD09-01-009), 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. If you would like to know they reached us, please include 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 plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard MSD Grand Haven 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 Port of Muskegon American Sail Training Association Tall Ships Challenge 2001 will take place in Muskegon, Michigan, from August 9, 2001 through August 13, 2001. During the Tall Ships Challenge 2001, a large number of tall ships will visit Muskegon Lake, with waterside events, in-port tours, and waterside moored vessel viewing. On Monday, August 13, 2001, from 11 a.m. to 5 p.m., the tall ships will take part in a ceremonial departure parade of tall ships, which is expected to attract a large number of spectator vessels. The Coast Guard will establish a Moving Safety Zone surrounding the participating tall ships to ensure the

safety of participating and spectator vessels and personnel.

The Moving Safety Zone will include the areas around and between all the vessels participating in the Tall Ships Challenge 2001 parade of tall ships during their transit in Muskegon Lake and vicinity on Monday, August 13, 2001. The Moving Safety Zone will include the area extending a distance of 100 yards ahead of the lead vessel in the parade, 100 yards abeam each vessel in the parade, and 100 yards astern of the last vessel in the parade. The Moving Safety Zone will ensure that spectator craft do not impede the path of any of the parade vessels.

The vessel congestion due to the large number of participating and spectator vessels poses a significant threat to the safety of life. This proposed rulemaking is necessary to ensure the safety of life on the navigable waters of the United States.

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

In order to ensure vessel safety, a Moving Safety Zone is proposed for the vessels participating in the Tall Ships Challenge 2001 parade of tall ships on Monday, August 13, 2001. The Moving Safety Zone will be in effect around the vessels participating in the parade of tall ships from 11 a.m. until 5 p.m. on Monday, August 13, 2001. The parade of tall ships will begin at 11 a.m. on Monday, August 13, 2001 in Muskegon Lake at approximately 43°14'36" N, 086°15'44" W. The parade of tall ships will then proceed to waypoint 43°13'37" N, 086°17'41" W, then to waypoint 43°14'07" N, 086°19'21" W, then outbound through Muskegon Lake Entrance Channel to the final parade waypoint in Lake Michigan at 43°13'11" N, 086°21'36" W. The parade of tall ships will finish at approximately 5 p.m. on Monday, August 13, 2001.

##### **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. The Moving Safety Zone will be in effect for a limited time, and extensive advance notice will be made to the