

(3) All persons and vessels shall comply with the instructions of the COTP, the designated on-scene U.S. Coast Guard or Navy patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Navy patrol personnel include commissioned, warrant, and petty officers of the U.S. Navy.

(4) The general regulations covering safety and security zones in §§ 165.23 and 165.33, respectively, of this part apply.

Dated: May 10, 2001.

**Mark G. VanHaverbeke,**

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

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**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-01-026]

RIN 2115-AA97

#### Safety Zone: Chicago Harbor, Chicago, IL

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary Final Rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the WXRT fireworks display taking place in the Chicago Harbor over Memorial Day weekend. The safety zone is necessary for the protection and safety of passengers and vessels during the fireworks display. The safety zone is intended to restrict vessel traffic from an area of the Chicago Harbor and, in particular, the Monroe Street Harbor area. During this event, vessels will be unable to enter or exit the Monroe Street Harbor.

**DATES:** This temporary final rule is effective from 9 p.m. until 10 p.m. on May 26, 2001 and May 27, 2001.

**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 CGD09-01-026 and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois and are available for inspection or copying between 9:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** MST2 Mike Hogan, U.S. Coast Guard

Marine Safety Office Chicago, 215 W. 83rd Street, Burr Ridge, Illinois 60521. The telephone number is (630) 986-2175.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the necessary effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

##### Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Chicago has determined firework launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, 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 around the location of the launch platforms will help ensure the safety of person and property at these events and help minimize the associated risk.

The safety zone will encompass the waters of the Chicago Harbor bounded by the following positions: starting at 41°52.43 N, 087°36.43 W, thence East to 41°52.43 N, 087°36.16 W, thence South to 41°52.28 N, 087°36.16 W, thence West to 41°52.28 N, 087°36.43 W, thence North back to the first position. This area includes a portion of the Monroe Street Harbor including the Grant Park anchorage areas (33 CFR 110.83), the entrance to the Monroe Street Harbor, as well as a portion outside the breakwall for the Monroe Street Harbor.

All persons and vessels shall comply with the instructions of the Coast Guard

Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Chicago or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF 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). We expect the economic impact of this 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 zone, and the zone is in an area 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 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 rule would not have a significant economic impact on a substantial number of small entities.

This 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.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The zone is only in effect for few hours on the day of the event. Vessel traffic can safely pass outside the safety zone during the event. Traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Chicago. Before the effective period, we will issue maritime advisories widely available to users of

the Port of Chicago by 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 this display 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 Chicago (see **ADDRESSES**).

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 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 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 rule would not impose an unfunded mandate.

#### Taking of Private Property

This 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 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 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 rule and concluded that, under figure 2-1, paragraph 32(g) of Commandant Instruction M16475.1C, this 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**.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 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 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 and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T09-013 is added to read as follows:

#### § 165.T09-013 Safety Zone: Chicago Harbor, Chicago, Illinois.

(a) *Location.* The safety zone will encompass the waters of the Chicago Harbor, including a portion of the Monroe Street Harbor and the entrance to the Monroe Street Harbor, bounded by the following positions: starting at 41°52.43 N, 087°36.43 W, thence East to 41°52.43 N, 087°36.16 W, thence South to 41°52.28 N, 087°36.16 W, thence West to 41°52.28 N, 087°36.43 W, thence North back to the first position.

(b) *Effective time and date.* This section is effective from 9 p.m. (local time) until 10 p.m. (local time) on May 26, 2001. In the event the fireworks display is cancelled due to inclement weather, this section is effective during these same times on May 27, 2001. The Coast Guard Captain of the Port, Chicago, and the designated Patrol Commander have the authority to terminate this event at any time. The designated on scene Patrol Commander may be contacted via VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Chicago, or his designated on scene representative.

Dated: May 11, 2001.

**R.E. Seebald,**

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

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 62

[WV-042-6011a ; FRL-6983-6]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of West Virginia; Control of Emissions from Existing Municipal Solid Waste Landfills

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This action approves the municipal solid waste (MSW) landfill