

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD01-01-118]

RIN 2115-AA97

Safety Zone: Fireworks Display, New Jersey Pierhead Channel and Kill Van Kull**AGENCY:** Coast Guard, DOT.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a fireworks display located in the New Jersey Pierhead Channel and Kill Van Kull. 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 New Jersey Pierhead Channel and Kill Van Kull.

DATES: This rule is effective from 9:15 p.m. until 10:45 p.m. on July 25, 2001.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD01-01-118) 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 date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM. Further, it is a local event with minimal impact on the waterway. Vessels may still transit through the eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel, and the southern 360 yards of the 400-yard wide Kill Van Kull during the event. The zone is only in effect for one and one half hours and vessels can be given permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers 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 a portion of 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 eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel, and the southern 360 yards of the 400-yard wide Kill Van Kull during the event; the zone is only in effect for one and one half hours and vessels can be given permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

Background and Purpose

The Coast Guard has received an application to hold a fireworks program on the waters of the New Jersey Pierhead Channel and Kill Van Kull. This regulation establishes a safety zone in all waters of the New Jersey Pierhead Channel and Kill Van Kull within a 180-yard radius of the fireworks barge in approximate position 40°39'13.5" N, 074°04'39.1" W (NAD 1983), about 125 yards southeast of the New Jersey Pierhead South Entrance Lighted Gong Buoy 1 (LLNR 37010). The safety zone is in effect from 9:15 p.m. until 10:45 p.m. on Wednesday, July 25, 2001. The safety zone prevents vessels from transiting a portion of the New Jersey Pierhead Channel and Kill Van Kull 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 eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel and through the southern 360 yards of the 400-yard wide Kill Van Kull during this event. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts.

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, that vessels may still transit through the eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel and the southern 360 yards of the 400-yard wide Kill Van Kull during the event, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone, and 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 6" 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 a portion of the New Jersey Pierhead Channel and Kill Van Kull 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 still transit through the eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel and the southern 360 yards of the 400-yard wide Kill Van Kull during the event. The zone is only in effect for one and one half hours and vessels can be given

permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Before the effective period, public notifications will be made via the Local Notice to Mariners and Marine Information Broadcasts, which are widely available to users of the New Jersey Pierhead Channel and Kill Van Kull.

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.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order

13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has 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.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, 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**.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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.T01–118 to read as follows:

§ 165.T01–118 Safety Zone: Fireworks Display, New Jersey Pierhead Channel and Kill Van Kull.

(a) *Location.* The following area is a safety zone: All waters of the New Jersey Pierhead Channel and Kill Van Kull within a 180-yard radius of the fireworks barge in approximate position 40°39'13.5" N, 074°04'39.1" W (NAD 1983), about 125 yards southeast of the New Jersey Pierhead South Entrance Lighted Gong Buoy 1 (LLNR 37010).

(b) *Effective period.* This section is effective from 9:15 p.m. until 10:45 p.m. on July 25, 2001.

(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: July 12, 2001.

P.A. Harris,

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

[FR Doc. 01–18244 Filed 7–20–01; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AK52

Rules of Practice: Medical Opinions From the Veterans Health Administration

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule with request for comments.

SUMMARY: This document amends the Department of Veterans Affairs' (VA) Appeals Regulations to clarify that the Board of Veterans' Appeals (Board) may obtain medical opinions from health care professionals in VA's Veterans Health Administration.

DATES: *Effective Date:* This interim final rule is effective July 23, 2001.

Comment Date: Comments must be received on or before September 21, 2001.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154,