

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.

#### 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 is excluded under paragraph (34)(g) because it is 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 record keeping requirements, Security measures, Waterways.

For the reasons set out 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), 6.401-1, 6.04-6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T-01-002 to read as follows:

#### § 165.T-01-002 Safety Zone: Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island, AK.

(a) *Description.* This safety zone includes an area in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. Specifically, the zone includes the waters of the Gulf of Alaska that are within the area bounded by a line drawn from a point located at 57° 28' North, 152° 25' West, thence south to a point located at 57° 09' North, 152° 25' West, thence northeast to a point located at 57° 14.5' North, 151° 59' West, thence north northeast to a point located at 57° 28' North, 151° 51.5' West, and thence west to the point located at 57° 28' North, 152° 25' West.

All coordinates reference Datum: NAD 1983.

(b) *Effective dates.* This section is effective from 2 p.m. on August 31, 2001, until 7:30 p.m. on September 15, 2001.

#### (c) Regulations.

(1) The Captain of the Port and the Duty Officer at Marine Safety Office, Anchorage, Alaska can be contacted at telephone number (907) 271-6700.

(2) The Captain of the Port may authorize and designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf in enforcing the safety zone.

(3) The general regulations governing safety zones contained in Title 33 Code of Federal Regulations, § 165.23 apply. No person or vessel may enter or remain in this safety zone, with the exception of attending vessels, without first obtaining permission from the Captain of the Port or his on scene representative. In the vicinity of Narrow Cape, the Captain of the Port, Western Alaska's on scene representative may be contacted onboard the U. S. Coast Guard cutter via VHF marine channel 16.

Dated: August 6, 2001.

**W.J. Hutmacher,**

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

[FR Doc. 01-21083 Filed 8-20-01; 8:45 am]

**BILLING CODE 4910-15-U**

#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[CGD09-01-055]

RIN 2115-AA97

#### Safety Zone; Sister Bay MarinaFest, Sister Bay, Wisconsin

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in Sister Bay for the Sister Bay MarinaFest 2001 fireworks display. This safety zone is necessary to protect spectators and vessels from the hazards associated with the storage, preparation, and launching of fireworks. This safety zone is intended to restrict vessel traffic from a portion of the Sister Bay marina, Sister Bay, Wisconsin.

**DATES:** This temporary rule is effective from 8:30 p.m. until 10 p.m. (CST) on September 1, 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 [CGD09-01-055] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747-7155.

#### 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 did not allow sufficient time for publication of an NPRM followed by a temporary final rule effective 30 days after publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays and the possible loss of life, injury, and damage to property.

#### Background and Purpose

This safety zone is established to safeguard the public from the hazards associated with launching of fireworks by Sister Bay marina, Sister Bay, Wisconsin. The size of the zone was determined by using previous experiences with fireworks displays in the Captain of the Port Milwaukee zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone will be in effect on September 1, 2001, from 8:30 p.m. until 10 p.m. (CST). The safety zone will encompass all waters bounded by the arc of a circle with a 420-foot radius with its center in approximate position 45° 10.60' N, 087° 06.60' W, offshore Sister Bay marina, Sister Bay, Wisconsin. The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents. These coordinates are based upon North American Datum 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless

authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port Milwaukee 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, Regulatory Planning and Review, 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).

### 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: the owners or operators of vessels intending to transit or anchor in the vicinity of Sister Bay marina from 8:30 p.m. until 10 p.m. (CST) on September 1, 2001.

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 only one hour and thirty minutes on one day and late in the day when vessel traffic is minimal. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on scene representative. Before the effective period, we will issue maritime advisories widely available to users of the Sister Bay.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them 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 Milwaukee (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 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) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### 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.

### 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.

### 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, and 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, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–992 is added as read as follows:

#### § 165.T09–992 Safety Zone: Waters off Sister Bay Marina, Sister Bay, Wisconsin.

(a) *Location.* The safety zone encompasses all waters of Lake Michigan bounded by the arc of a circle

with a 420-foot radius with its center in approximate position 45°10.60' N, 087°06.60' W (approximately 420 feet offshore Sister Bay marina). These coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Effective period.* From 8:30 p.m. until 10 p.m. on September 1, 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 Milwaukee or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant or 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) This safety zone should not adversely effect shipping. However, commercial vessels may request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF-FM.

Dated: August 10, 2001.

**M.R. DeVries,**

*Commander, U.S. Coast Guard Captain of the Port Milwaukee, Milwaukee, Wisconsin.*  
[FR Doc. 01-21084 Filed 8-20-01; 8:45 am]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 211

#### Appeal of Decisions Concerning the National Forest Service; Removal of Outdated Rules

**AGENCY:** Forest Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes from the Code of Federal Regulations the rules on Appeal of Decisions Concerning the National Forest System. These rules, which contain termination dates that are long past, are obsolete and have been suspended by the rules on appeal procedures for National Forest System Projects and Actions. The presence of the obsolete rules in the Code of Federal Regulations is causing public confusion about which rules to follow in filing appeals.

**DATES:** This rule is effective August 21, 2001.

**ADDRESSES:** Written inquiries about this rule may be sent to the Director, Ecosystem Management Coordination Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

**FOR FURTHER INFORMATION CONTACT:** Gary Wetterberg, Forest Service, USDA; Telephone (202) 205-0917.

**SUPPLEMENTARY INFORMATION:** The rule governing administrative appeals of Forest Service decisions at 36 CFR part 211, subpart B, consist of three sections. Section 211.16 concerns appeal of resource recovery and rehabilitation decisions resulting from natural catastrophes. Its procedures do not apply to any appeal received after February 22, 1989 (36 CFR 211.16(o)). Section 211.17 concerns appeal of decisions to reoffer returned or defaulted timber sales on National Forests. Its procedures do not apply to any decision signed on or after September 13, 1991 (36 CFR 211.17(q)). Section 211.18 concerns appeal of decisions of forest officers made prior to February 21, 1989 (36 CFR 211.18)(s)).

The processes for appealing National Forest System decisions as established in 36 CFR 211.16 and 211.18 were superseded on January 23, 1989, by adoption of the rules at 36 CFR parts 217 and 251 (54 FR 3342). The rules at 36 FR part 217 offered the public a process for the administrative appeal of decisions relating to land and resource management plans, projects, and activities. The rule at 36 FR part 251, subpart C, was, and continues to be, limited to appeal of decisions regarding written instruments authorizing occupancy and use of National Forest System Lands. At the time these new rules were adopted, the Department made corollary amendments to § 211.16 and 211.18 (54 FR 3342) to make clear they were not applicable to decisions rendered after February 21 and February 22, 1989, respectively. Subsequently, the remaining appeal rule at 36 CFR 211.17 was amended to apply only to decisions signed before September 13, 1991 (56 FR 46549).

Some individuals and groups seeking to appeal Forest Service decisions have become confused by the presence of the now outdated and superseded rules at 36 CFR part 211, subpart B. As recently as March 29, 2001, and April 2, 2001, citizens filed a request for second level review of project of decisions on the Plumas National Forest pursuant to 36 CFR 211.18. In spite of the time and effort the appellants spent drafting their appeals, the Forest Service could not provide the second level reviews

requested, because they were filed pursuant to regulations long since terminated. The appellants apparently did not notice the termination date in paragraph (q) of § 211.18 and were unaware of the fact that the decisions they sought to appeal were subject to the appeal process in 36 CFR part 215 adopted November 4, 1993 (58 FR 58910).

Therefore, it is in the public interest to remove from the Code of Federal Regulations the obsolete rules at 36 CFR part 211, subpart B, in order to reduce public confusion. However, it should be noted that the removal of this rule will not alter conditions of any settlement agreement with appellants reached under the provisions of the rules at 36 CFR part 211, subpart B.

#### Regulatory Certifications

##### *Regulatory Impact*

This is not a significant rule. The rule will not have an annual effect of \$100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. It will not interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, the rule will not alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, the rule is not subject to Office of Management and Budget (OMB) review under Executive Order 12866. Moreover, this rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not have a significant economic impact on a substantial number of small entities as defined by the Act. This rule will not impose recordkeeping requirements; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market.

##### *Environmental Impact*

This rule has no direct or indirect effect on the environment. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement rules, regulations or policies to establish Service-wide administrative procedures, program processes, or instructions.

##### *No Takings Implications*

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order