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**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: July 1, 2003.

**Gregory Jenner,**

*Deputy Assistant Secretary of the Treasury.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09-02-003]

#### Safety Zone; Captain of the Port Milwaukee Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of implementation of regulation.

**SUMMARY:** The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Milwaukee Zone during July 2003. This action is necessary to provide for the safety of life and property on navigable waters during these events. These zones will restrict vessel traffic from a portion of the Captain of the Port Milwaukee Zone.

**DATES:** 33 CFR 165.909 is effective from 12:01 a.m. (CST) on July 1, 2003 through 11:59 p.m. (CST) on July 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Marine Science Technician Chief Dave McClintock, U.S. Coast Guard Marine Safety Office Milwaukee, at (414) 747-7155.

#### SUPPLEMENTARY INFORMATION:

The Coast Guard is implementing the permanent safety zones in 33 CFR 165.909 (published July 3, 2002, in the **Federal Register**, 67 FR 44588), for fireworks displays in the Captain of the Port Milwaukee Zone during July 2003. The following safety zones are in effect for fireworks displays occurring in the month of July 2003:

*U.S. Bank (Firststar) Fireworks.* This safety zone will be enforced on July 3, 2003 from 9:20 p.m. until 10:10 p.m. In

the event of inclement weather, the rain date will be during these same times on July 4, 2003.

*Festa Italiana Fireworks.* This safety zone will be enforced on July 17th through the 20th, 2003 from 10 p.m. until 10:30 p.m.

Dated: June 30, 2003.

**Virginia J. Kammer,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP SAN JUAN-03-104]

RIN 1625-AA00

#### Safety Zone: Swimming Across San Juan Harbor, San Juan, PR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary fixed safety zone for the Swimming Across San Juan Harbor event in San Juan Harbor, San Juan, Puerto Rico. This safety zone is necessary to protect swimmers and provide for the safety of life on navigable waters by excluding vessels from transiting in the swimming area.

**DATES:** This rule is effective from Sunday 9 a.m. on July 20, 2003 through 12 p.m. (noon) on Sunday July 20, 2003.

**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 [COTP San Juan-03-104] and are available for inspection or copying at Marine Safety Office San Juan, #5 La Puntilla Final, Old San Juan, PR 00901-1800 between 7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Reyes, Greater Antilles Section at (787) 729-5381.

#### 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 a NPRM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to

the public interest since immediate action is needed to protect the public and waterways of the United States.

For the same reasons, 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**.

#### Background and Purpose

This rule is required to provide for the safety of life on navigable waters because numerous swimmers will be crossing navigable channels in the commercial port of San Juan. This rule creates a safety zone area that will prohibit non-participating vessels from entering the safety zone during the event without the authorization of the Captain of the Port of San Juan, Puerto Rico. The safety zone area is based on a rectangular shape starting at point 1, La Puntilla Final, Coast Guard Base at position 18°27'33" N 066°07'00" W, then South to point 2, Catano Ferry Pier at position 18°26'36" N 066°07'00" W, then East to point 3, Punta Catano at position 18°26'40" N 066°06'48" W, then North to point 4 at position 18°27'40" N 066°06'49" W and back to origin.

Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 or telephone number (787) 729-2041. The United States Coast Guard Communications Center will notify the public via Broadcast Notice to Mariners VHF Marine Band Radio, Channel 22 when the zone is activated.

#### 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 Homeland Security. The Coast Guard expects the economic impact of this safety zone to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of Department of Homeland Security is unnecessary because entry into the safety zone is prohibited for a limited time and vessels will still be able to transit around the safety zone and may be allowed to enter the safety zone with the express permission of the Captain of the Port of San Juan or his designated representative.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard

considered whether this rule would have a significant economic effect upon 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 because the safety zone will only be in effect for a limited time and vessels will be able to transit around the zone and may be allowed to enter the safety zone with the express permission of the Captain of the Port of San Juan, Puerto Rico or his designated representative.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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 will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### 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. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not affect 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.

#### Environmental

The Coast Guard considered the environmental impact of this rule and concluded under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

#### 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 create 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, because it does not have a substantial direct effect on one or more Indian tribes, on the relationships 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 Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs as a significant energy action has not designated it. 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 record keeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 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; Department of Homeland Security Delegation No. 0170.

■ 2. A new temporary § 165.T07-104 is added to read as follows:

#### § 165.T07-104 Safety Zone; Swimming Across San Juan Harbor, San Juan, Puerto Rico.

(a) *Location.* The safety zone area is based on a rectangular shape starting at point 1, La Puntilla Final, Coast Guard Base at position 18°27'33" N 066°07'00" W, then South to point 2, Catano Ferry Pier at position 18°26'36" N 066°07'00" W, then East to point 3, Punta Catano at position 18°26'40" N 066°06'48" W, then North to point 4 at position 18°27'40" N 066°06'49" W and back to origin. All coordinates referenced use Datum: NAD 83.

(b) *Regulations.* All vessels, with the exception of event participant vessels, are prohibited from entering the safety zone without the express permission of the Captain of the Port of San Juan, Puerto Rico or his designated representative. After the termination of the Swimming Across San Juan Harbor, San Juan, Puerto Rico, all vessels may resume normal operations.

(c) *Effective dates.* This section is effective from 9 a.m. on Sunday, July 20, 2003 through 12 p.m. (noon) on Sunday, July 20, 2003.

Dated: June 29, 2003.

**William J. Uberti,**

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

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