

Corporation Y stock with respect to each share of Corporation X stock, the basis of each share of Corporation X stock is allocated between such share of Corporation X stock and two shares of Corporation Y stock in proportion to the fair market value of those shares. Therefore, each of the 5 shares of Corporation X stock acquired on Date 1 will have a basis of \$2 and each of the 10 shares of Corporation Y stock received with respect to those shares will have a basis of \$1. In addition, each of the 5 shares of Corporation X stock acquired on Date 2 will have a basis of \$4 and each of the 10 shares of Corporation Y stock received with respect to those shares will have a basis of \$2. On or before the date on which the basis of a share of Corporation Y stock received becomes relevant, H may designate which of the shares of Corporation Y have a basis of \$1 and which have a basis of \$2.

(d) *Effective date.* This section applies to exchanges or distributions of stock and securities after the date these regulations are published as final regulations in the **Federal Register**.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD09-02-009]

RIN 1625-AA00

**Safety Zones; Captain of the Port Buffalo Zone**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** On May 10, 2002, the Coast Guard published a notice of proposed rulemaking requesting comments on the proposed establishment of safety zones for annual fireworks displays located in the Captain of the Port Buffalo Zone. This supplemental notice of proposed rulemaking proposes to remove twelve events, add four additional events, and alters the location and time of two events. The proposed changes reflect the inability of several events to provide exact dates for the annual fireworks.

**DATES:** Comments must be received on or before June 17, 2004.

**ADDRESSES:** Comments may be mailed or delivered to: Commanding Officer, U.S. Coast Guard Marine Safety Office (MSO) Buffalo, 1 Fuhrmann Blvd., Buffalo, NY 14203. MSO Buffalo

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 Buffalo between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lt. Craig A. Wyatt, U.S. Coast Guard MSO Buffalo, (716) 843-9570.

**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 (CGD09-02-009), 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 your comments have reached us, please enclose a stamped, self-addressed envelope or postcard. This unit will mail the envelope or postcard by the following workday.

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 Buffalo 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**

On May 10, 2002, the Coast Guard published an NPRM in the **Federal Register** proposing 14 safety zones for annual firework displays in the Captain of the Port Buffalo zone (67 FR 31747). We proposed these safety zones to control vessel traffic within the immediate location of the fireworks launching area during annual fireworks displays. The Coast Guard received no comments in response to this NPRM.

This supplement to the proposed regulation removes twelve events that were proposed in the NPRM, adds four new events (Ontario Memorial Day Fireworks, Ontario, NY; Olcott

Fireworks, Olcott, NY; Harbor Sound and Light Festival, Sackets Harbor, NY; Village of Sackets Harbor 4th of July Display, Sackets Harbor, NY), and revises the location and time of two events (Oswego Independence Day Fireworks, and Oswego Harborfest Fireworks Display). This supplemental notice of proposed rulemaking proposes to establish 6 permanent safety zones that will be activated for marine events occurring annually at the same location.

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 launched 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 in the vicinity of these marine event locations 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 safety zones created for these events in the past.

**Discussion of Proposed Rule**

The proposed size of these safety zones was determined using National Fire Protection Association Pamphlet 1123, Code for Fireworks Displays, and local area fire department standards, combined with the Coast Guard's knowledge of waterway conditions in these areas.

The Coast Guard believes this proposed regulation will not pose any new problems for commercial vessels transiting the area. In the event that shipping would be affected by this proposed regulation, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone.

The Coast Guard will announce the exact times and dates for these events by publishing a notice of implementation of regulation in the **Federal Register**, as well as announcing the date(s) in the Ninth Coast Guard District Local Notice

to Mariners, marine information broadcasts, and, for those who request it from Marine Safety Office Buffalo, 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 proposed rule under that order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS 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 zones are only enforced for a 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/or blocks shipping channels, with the permission of the Captain of the Port Buffalo, traffic may be allowed to pass through the safety zones under Coast Guard or assisting agency escort. Before the

annual enforcement period, the Coast Guard will publish a notice of implementation of regulation in the **Federal Register**, and will issue maritime advisories in the Ninth Coast Guard District Local Notice to Mariners, Marine Information Broadcasts and facsimile broadcasts—forums widely available to users who might be in the affected area. 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 proposed 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 proposed rule would economically affect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects and participate in the rulemaking process. If the proposed 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 Buffalo (see **ADDRESSES**.)

Small businesses may send comments on 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 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

### 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 proposed 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 34(g), of Commandant Instruction M16475.1D, 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**.

### Indian Tribal Governments

This proposed 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 proposed 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.

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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation no. 0170.1.

2. Add § 165.914 to read as follows:

#### § 165.914 Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone.

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

(1) Oswego Independence Day Fireworks, Oswego, NY:

(i) *Location.* All waters of Oswego Harbor, in Lake Ontario, within a 1,000-foot radius of the fireworks barge moored or anchored in approximate position 43°28'05" N, 076°31'01" W (NAD 1983).

(ii) *Enforcement date.* The first Sunday in July.

(2) Oswego Harborfest Fireworks Display, Oswego, NY:

(i) *Location.* (A) All waters of Oswego Harbor within a 300-yard radius around the fireworks barge located at 43°28'08" N, 076°31'07" W (NAD 1983)

(B) All waters surrounding the fireworks display on the western break wall; 43°27'55" N, 076°31'30" W then to 43°28'03" N, 076°31'12" W then to 43°27'54" N, 076°31'06" then to 43°27'48" N, 076°31'26" W then back to the point of origin (NAD 1983).

(ii) *Enforcement date.* The last Saturday during the last full week of July.

(3) Ontario Memorial Day Fireworks, Ontario, NY:

(i) *Location.* All waters of Lake Ontario within a 200-yard radius of the fireworks display at Bear Creek Harbor located in position 43°16'39" N, 077°16'35" W (NAD 1983).

(ii) *Enforcement date.* Memorial Day, the last Monday in May.

(4) Olcott Fireworks, Olcott, NY:

(i) *Location.* All waters of Lake Ontario within a 300-yard radius of the fireworks display on the west break wall of the Olcott Harbor entrance located in position 43°20'25" N, 078°43'09" W (NAD 1983).

(ii) *Enforcement date.* July 3.

(5) Harbor Sound and Light Festival, Sackets Harbor, NY:

(i) *Location.* All waters of Lake Ontario within a 300-yard radius of the fireworks display on the beach just southwest of Mill Creek located in position 43°57'18" N, 076°06'35" W (NAD 1983).

(ii) *Enforcement date.* The second Saturday in June.

(6) Village of Sackets Harbor 4th of July Display, Sackets Harbor, NY:

(i) *Location.* All waters of Lake Ontario within a 200-yard radius of the fireworks display on the beach of Battlefield State Park located in position 43°56'56" N, 076°07'43" W (NAD 1983).

(ii) *Enforcement date.* July 4.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels must 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) Commercial vessels may request permission from the Captain of the Port Buffalo 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 Buffalo on Channel 16, VHF-FM.

(4) Marine Event Permits (CG-4423) will still need to be sent to U.S. Coast Guard Group Buffalo, NY.

(c) *Notice of annual enforcement period.* The Captain of the Port Buffalo will publish, at least 10 days in advance of each annual event, a notice of

implementation of regulation in the **Federal Register**. The COTP may also issue notices in the Ninth Coast Guard District Local Notice to Mariners the dates and times this section will be enforced each year.

Dated: April 22, 2004.

**P. M. Gugg,**

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

[FR Doc. 04–9906 Filed 4–30–04; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Parts 17 and 21

RIN 1660-AA13

### Governmentwide Debarment and Suspension (Nonprocurement); Withdrawal

**AGENCY:** Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security (DHS).

**ACTION:** Withdrawal of notice of proposed rulemaking.

**SUMMARY:** On January 23, 2002, FEMA and other agencies published a common rule notice entitled "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)," (67 FR 3265). FEMA is now an agency under DHS, which will publish its own rule governing these matters; therefore, FEMA is withdrawing this notice of proposed rulemaking for this common rule.

**DATES:** *Effective Date:* Effective May 3, 2004.

**FOR FURTHER INFORMATION CONTACT:** Edward Broyles, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472, (phone) 202–646–3961, (facsimile) 202–646–4536, or (e-mail) [Edward.Broyles@dhs.gov](mailto:Edward.Broyles@dhs.gov).

**SUPPLEMENTARY INFORMATION:** On January 23, 2002, FEMA and other agencies published a common rule notice for proposed rulemaking entitled "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)," (67 FR 3265). FEMA is now an agency under DHS, which will publish its own rule