

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 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. 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. A new temporary § 165.T09–024 is added to read as follows:

#### § 165.T09–024 Safety Zone; Detroit River, Detroit, MI.

(a) *Location.* The safety zone encompasses all waters of the Detroit River within a 300-yard radius of the fireworks launch platform in approximate position 42°19'35" N, 083°02'25" W (off of the Renaissance Center) (NAD 83).

(b) *Effective period.* This rule is effective from 10 p.m. until 10:45 p.m. (local time) on June 23, 2004.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit or his designated on-scene representative. The designated on-scene Patrol Commander may be contacted via VHF Channel 16.

Dated: June 9th, 2004.

**P.G. Gerrity,**

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

[FR Doc. 04–13978 Filed 6–18–04; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

#### 33 CFR Part 165

[CGD09–04–025]

RIN 1625–AA00

#### Safety Zone; Saginaw River, Bay City, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing two temporary safety zones for the Bay City Fireworks Festival in Bay City, MI. These safety zones are necessary to control vessel traffic within the immediate location of the fireworks launch sites and to ensure the safety of life and property during the event. These safety zones are intended to restrict vessel traffic from a portion of the Saginaw River.

**DATES:** This temporary final rule is effective from 10:05 p.m. on July 1, 2004, until 10:55 p.m. on July 4, 2004.

**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 [CGD09–04–025] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave., Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** ENS Cynthia Lowry, U.S. Coast Guard Marine Safety Office Detroit, (313) 568–9580.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

The Coast Guard 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), the Coast Guard finds that 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

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones and the explosive hazard of fireworks, the Captain of the Port Detroit has determined fireworks 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 safety zones to control vessel movement around the launch platforms will help ensure the safety of persons and property at the events and help minimize the associated risks.

The safety zones will encompass all waters of the Saginaw River within a 300-yard radius of the fireworks barges, the first in approximate position 43°35'55" N, 083°53'40" W (off Veterans Park) and the second in approximate position 43°35'55" N, 083°53'30" W (off Wenonah Park). The geographic coordinates are based upon North American Datum 1983 (NAD 83). The size of these zones were determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit 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, 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 this rule under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects 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 DHS is unnecessary. This determination is based on the minimal time that vessels will be restricted from the safety zone.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard 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 will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone will only be enforced from 10:05 p.m. until 10:55 p.m. on the days of the event and allows vessel traffic to pass outside of the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the Saginaw River by the Ninth Coast Guard District Local Notice to Mariners and Marine Information Broadcasts. Facsimile broadcasts may also be made.

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 (Pub. L. 104–121), small entities may be assisted in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction or if you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (*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**

A rule has implications for federalism under Executive Order 13132 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. The Coast Guard analyzed this rule under that Order and has 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. Though this rule will 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**

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 create an environmental risk to health or risk to safety that may disproportionately affect children.

#### **Environment**

The Coast Guard has analyzed this rule under Commandant Instruction M16475.1D, which guides their compliance with the National

Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and has concluded that there are no factors in this rule that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket 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.

#### **Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus.

#### **Energy Effects**

The Coast Guard has analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, and has 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 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. 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.

■ A new temporary § 165.T09–025 is added to read as follows:

#### § 165.T09–025 Safety Zone; Saginaw River, Bay City, MI.

(a) *Location.* The following are safety zones:

(1) All waters of the Saginaw River within a 300-yard radius of the fireworks launch platform in approximate position 43°35'55" N, 083°53'40" W (off Veteran's Park)

(2) All waters of the Saginaw River within a 300-yard radius of the fireworks launch platform in approximate position 43°35'55" N, 083°53'30" W (off Wenonah Park) (NAD 83).

(b) *Effective period.* This regulation is effective from 10:05 p.m. on July 1, 2004 until 10:55 p.m. on July 4, 2004.

(c) *Enforcement period.* The safety zones in this section will be enforced from 10:05 p.m. until 10:55 p.m., each day of the effective period.

(d) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit, or his designated on-scene representative. The designated on-scene Patrol Commander may be contacted via VHF Channel 16.

Dated: June 9, 2004.

**P.G. Gerrity,**

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

[FR Doc. 04–13977 Filed 6–18–04; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 03–009]

RIN 1625–AA00

#### Security Zones; San Francisco Bay, San Francisco, CA and Oakland CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing fixed security zones in areas of the San Francisco Bay adjacent to San Francisco International Airport and Oakland International Airport. These security zones are necessary to ensure public safety and prevent sabotage or terrorist acts at these airports. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

**DATES:** This rule is effective August 1, 2004.

**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 COTP 03–009 and are available for inspection or copying at the Waterways Branch of the Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Doug Ebers, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On September 21, 2001, we issued a temporary final rule under docket COTP San Francisco Bay 01–009, and published that rule in the **Federal Register** (66 FR 54663, Oct. 30, 2001). That rule (codified as 33 CFR 165.T11–095) established a security zone extending 1800 yards seaward from the Oakland airport shoreline and a security zone extending 2000 yards seaward from the San Francisco airport shoreline. Upon further reflection, and after discussion with airport officials and members of the public, we issued a new temporary rule in Title 33 of the Code of Federal Regulations. That rule (67 FR 5482, Feb. 6, 2002, codified as 33 CFR 165.T11–097) reduced the size of the security zones to 1000 yards

seaward from both the Oakland and San Francisco airport shorelines.

We received several written comments about the 1000-yard security zones established by that rule (33 CFR 165.T11–097). Virtually all of those comments urged a reduction in size of the security zones in order to allow increased public access to San Francisco Bay for fishing, windsurfing and similar uses. As a result, we issued a new temporary rule (67 FR 44566, July 3, 2002) that further reduced the size of the security zones to 200 yards seaward from both the Oakland and San Francisco airport shorelines. That rule (codified as 33 CFR 165.T11–086) expired on December 21, 2002.

Since the time that the security zones were allowed to expire, there were several security incursions involving personnel gaining access to the airports from boats. In addition, the Department of Homeland Security in consultation with the Homeland Security Council, raised the national threat level on December 21, 2003, and since then, from an Elevated to High risk of terrorist attack based on intelligence indicating that Al-Qaeda was poised to launch terrorist attacks against U.S. interests. To address these security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against one of these airports would have on the public interest, we published a notice of proposed rulemaking (NPRM) entitled "Security Zones; San Francisco Bay, San Francisco, CA and Oakland, CA" in the **Federal Register** (69 FR 2320, January 15, 2004) proposing to establish permanent security zones extending approximately 200 yards seaward around the Oakland and San Francisco airports. We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

#### Penalties for Violating Security Zone

Vessels or persons violating this security zone will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of \$250,000), and in rem liability against the offending vessel. Any person who violates this section, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up