

080°06'52" W; thence northerly along and following the shoreline to the northeast corner of Pier 7 at 26°05'23" N, 080°06'55" W; thence northwesterly along the western edge of the Intracoastal Waterway to the transect point on the 17th Street Causeway Bridge thence westerly to where the northwestern corner of the 17th Street Causeway Bridge meets the seawall at 26°06'02" N, 080°07'07" W. All coordinates reference datum NAD 1983.

(2) *Security Zone.* The Security Zone encompasses all waters from surface to bottom contained within an imaginary line drawn from a point at the northwest corner of the 17th Street Causeway Bridge where it meets the seawall at 26°06'02" N, 080°07'07" W; thence easterly to the western edge of the Intracoastal Waterway Channel at 26°06'02" N, 080°07'07" W; thence southerly along the western edge of the Intracoastal channel to a point on the northeast corner of Pier 7 at 26°05'23" N, 080°06'54" W and all waters westward of that imaginary line and adjacent to Port Everglades.

(b) *Definitions.*

*Designated Representative* means Coast Guard Patrol Commanders that include commissioned, warrant, petty officers or auxiliary of the Coast Guard, and Federal, State, and local officers that have been designated as such by the Commander, Seventh Coast Guard District, the Captain of the Port, Miami or the Coast Guard Maritime Operations Center (MOC).

*Personal Watercraft (PWC)* means, for the purposes of this section, vessel(s) less than 16 feet in length, which uses an inboard, internal combustion engine powering a water jet pump as its primary source of propulsion. PWCs are designed to be operated by a person or persons sitting, standing or kneeling on the vessel, rather than within the confines of the hull. The length is measured from end to end over the deck excluding sheer, meaning a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bowsprits, bumpkins, rudders, outboard motor brackets, and similar fittings or attachments, are not included in the measurement. Length is stated in feet and inches.

*Rigid Hull Inflatable Boat (RHIB)* means, for purposes of this section, a vessel that has an inflatable fabric or rubber collar or a foam collar surrounding the hull of the vessel. A RHIB's collar is normally joined to a fiberglass hull on larger models or a fabric hull on smaller models. Fabric hulls are often also themselves

inflatable, or have an inflatable keel and sometimes have a soft floor or have a reinforced floor slated with wood or other rigid materials.

*Slow Speed* means the speed at which a vessel proceeds when it is fully off plane, completely settled into the water and not creating excessive wake. In no instance should slow speed be interpreted as a speed less than that required to maintain steerageway. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to slow speed. A vessel is not proceeding at slow speed if it is creating an excessive wake, on a plane or in the process of coming up or coming off plane.

(c) *Regulations.*

(1) All Vessels transiting the Regulated Navigation Area (RNA) shall proceed continuously and at a slow speed. Nothing in this rule alleviates vessels or operators from complying with all State and local laws in the area, including manatee slow speed zones.

(2) All vessels within the Regulated Navigation Area (RNA) shall comply with the commands and instructions issued by the Designated Representative, the Commander, Seventh Coast Guard District, the Captain of the Port, Miami or the Coast Guard Marine Operations Center (MOC).

(3) Vessels greater than 100 feet in length shall check in directly with on-scene Designated Representative(s) or the MOC, via VHF channel 12 or telephone at (305) 535-8701 to obtain permission to enter or transit the RNA. All vessels that require the Brooks Memorial (17th Street) bascule bridge to open shall not enter the RNA until permission to open the Brooks Memorial bridge and/or enter the RNA is granted by the MOC or Designated Representative.

(4) No personal watercraft shall be permitted in the Regulated Navigation Area except those operated by law enforcement personnel.

(5) No Rigid Hull Inflatable Boats shall be permitted in the Regulated Navigation Area except those operated by law enforcement personnel or licensed commercial salvage operators.

(6) Entry into or remaining within the Security Zone is prohibited unless authorized by the Designated Representative, the Commander, Seventh Coast Guard District, the Captain of the Port, Miami or the Coast Guard Marine Operations Center (MOC). Persons desiring to enter or transit the areas encompassed by the Security Zone may contact on-scene Designated Representative(s) or the Coast Guard

Maritime Operations Center on VHF channel 12 or via telephone at (305) 535-8701 in order to obtain permission to transit the Security Zone. If permission is granted, all persons and vessels must comply at all times with the instructions of the Designated Representative, the Commander, Seventh Coast Guard District, the Captain of the Port, Miami or the Coast Guard Marine Operations Center (MOC).

(d) *Effective dates.* This section is effective from 12:01 a.m. on June 4, 2005 until 12 p.m. on June 8, 2005.

Dated: May 26, 2005.

**W.E. Justice,**

*Captain, U.S. Coast Guard, Commander, Seventh Coast Guard District, Acting.*

[FR Doc. 05-11006 Filed 5-31-05; 12:51 pm]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR PART 165**

[CGD09-05-017]

**RIN 1625-AA00**

**Safety Zone; Rochester Harbor Fireworks, Rochester, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone encompassing the navigable waters of Rochester Harbor and the Genesee River. This safety zone is necessary to ensure the safety of spectators and vessels from the hazards associated with fireworks displays. This rule will restrict vessel traffic from a portion of Rochester Harbor and the Genesee River, Rochester, New York.

**DATES:** This rule is effective from 9 p.m. until 10 p.m. on June 25, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of the docket (CGD09-05-017), and are available for inspection or copying at U.S. Coast Guard Marine Safety Office (MSO) Buffalo, 1 Fuhrmann Blvd., Buffalo, New York 14203 between 7 a.m. and 3 p.m. (local), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Craig A. Wyatt, U.S. Coast Guard Marine Safety Office Buffalo, at (716) 843-9570.

**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. This safety zone is temporary in nature and limited time existed for an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be impracticable and contrary to public interest since immediate action is needed to minimize potential danger to the public during the fireworks demonstration.

### Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Buffalo 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 a safety zone to control vessel movement around the locations of the launch platforms will help ensure the safety of persons and property at these events and help minimize the associated risk.

The safety zone consists of all navigable waters of Rochester Harbor and the Genesee River encompassed by an area 400 yards around the West Jetty pier in approximate position: 43°15'40" N 077°36'05" W. All Geographic coordinates are North American Datum of 1983 (NAD 83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

### Discussion of Rule

The Coast Guard is establishing a safety zone consisting of a portion of the navigable waters of Rochester Harbor and the Genesee River. The Coast Guard will notify the public in advance, by way of 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 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 rule under that order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS) (44 FR 11040, February 26, 1979). We expect 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 zone, and the zone is in areas where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will 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.

This rule may 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.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone is only in effect from 9 p.m. until 10 p.m. (local) on the day of the event. Vessel traffic can safely pass outside the safety zone during the event. In cases where traffic congestion is greater than expected or blocks shipping channels, traffic may be allowed to pass through the safety zone under Coast Guard or assisting agency escort with the permission of the Captain of the Port Buffalo. Additionally, the Coast Guard has not received any negative reports from small entities affected during displays in previous years.

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

### Taking of Private Property

This rule does 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f) and have determined that there are no factors in this case that 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. Paragraph (34)(g) is applicable to this event because this rule establishes a safety zone.

#### 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 standards.

#### 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 record keeping 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. Add new temporary § 165.T09–017 to read as follows:

#### § 165.T09–017 Safety Zone; Rochester Harbor Fireworks, Rochester, NY

(a) *Location.* The following area is a temporary safety zone: all waters of Rochester Harbor and the Genesee River encompassed by an area 400-yards around the West Jetty pier in approximate position: 43°15'40" N, 077°36'05" W. These coordinates are based upon NAD 83.

(b) *Regulations.* (1) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Buffalo.

(2) 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 Buffalo, or his designated on-scene representative.

(c) *Effective time and date.* This section is effective from 9 p.m. through 10 p.m. (local) on June 25, 2005.

Dated: May 18, 2005.

**K.C. Burke,**

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

[FR Doc. 05–10940 Filed 6–1–05; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09–05–016]

RIN 1625–AA00

#### Safety Zone; Presque Isle Bay, Dobbins Landing, Erie, PA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone encompassing the navigable waters of Presque Isle Bay. This safety zone is necessary to ensure the safety of spectators and vessels from the hazards associated with fireworks displays. This safety zone restricts vessel traffic from a portion of Lake Erie and Presque Isle Bay, Erie, Pennsylvania.

**DATES:** This rule is effective from 10 p.m. until 10:30 p.m. on June 21, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of the docket (CGD09–05–016), and are available for inspection or copying at U.S. Coast Guard Marine Safety Office (MSO) Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203 between 7 a.m. and 3 p.m. (local), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Craig A. Wyatt, U.S. Coast Guard Marine Safety Office Buffalo, at (716) 843–9570.

#### 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. This safety zone is temporary in nature and limited time existed for an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be impracticable and contrary to public interest since immediate action is needed to minimize potential danger to the public during the fireworks demonstration.

#### Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the