

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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 temporary § 165-T11-205 to read as follows:

**§ 165-T11-205 Safety Zone; City of Richmond July 3rd Fireworks Show, San Francisco Bay, CA.**

(a) *Location.* A safety zone is established for the waters of San Francisco Bay in the Richmond Inner Harbor surrounding a barge used as the launch platform for a fireworks display. During the loading of the fireworks barge, during the transit of the fireworks barge to the display location, and until fifteen minutes prior to the start of the fireworks display, the restricted area encompasses the navigable waters around and under the fireworks barge within a radius of 100 feet. During the fifteen minutes preceding the fireworks display and during the twenty minute fireworks display itself, the safety zone increases in size to encompass the navigable waters around and under the fireworks launch barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on July 3, 2007, and will take place at Pier 50 in San Francisco. Towing of the barge from Pier 50 to the display location is scheduled to take place between 6 p.m. and 8:30 p.m. on July 3, 2007. During the twenty minute fireworks display, scheduled to start at approximately 9:15 p.m. on July 3, 2007, the fireworks barge will be located approximately 1,000 feet offshore from Point Potrero in the Richmond Inner Harbor in position 37°54.40' N, 122°21.54' W.

(b) *Effective Period.* This section will be enforced from 8 a.m. to 10 p.m. on July 3, 2007. If the event concludes prior to the scheduled termination time, the Coast Guard will cease enforcement of the safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone by all vessels and persons is prohibited, unless specifically authorized by the Captain of the Port San Francisco, or his designated representative.

(d) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, or the designated on-scene patrol personnel. Patrol personnel can be comprised of commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard

Auxiliary, local, State, and Federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. The U.S. Coast Guard may be assisted in the patrol and enforcement of this safety zone by local law enforcement as necessary.

Dated: June 13, 2007.

**W.J. Uberti,**

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

[FR Doc. E7-12140 Filed 6-22-07; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**[CGD09-07-034]**

**RIN 1625-AA00**

**Safety Zone; Mercyhurst College "Old Fashion 4th of July" Presque Isle Bay, Erie, PA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Presque Isle Bay and Lake Erie near Erie, Pennsylvania. This zone is intended to restrict vessels from a portion of Presque Isle Bay and Lake Erie during the Mercyhurst College "Old Fashion 4th of July", fireworks display on July 4, 2007. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

**DATES:** This rule is effective from 10 p.m. (local) to 10:30 p.m. (local) on July 4, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CGD09-07-034 and are available for inspection or copying at U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203 between 8 a.m. (local) and 3 p.m. (local), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Tracy Wirth, U.S. Coast Guard Sector Buffalo, (716) 843-9573.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause

exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the 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. For the same reasons, the Coast Guard also finds, under 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective fewer than 30 days after publication in the **Federal Register**.

**Background and Purpose**

This temporary safety zone is necessary to protect 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 hazards of fireworks, the Captain of the Port Buffalo has determined that fireworks launches proximate to watercraft pose a significant risk to public safety. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

**Discussion of Rule**

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Mercyhurst College "Old Fashion 4th of July" fireworks display. The fireworks display will occur between 10 p.m. (local) and 10:30 p.m. (local) on July 4, 2007. The safety zone for the fireworks will encompass all waters of Presque Isle Bay and Lake Erie, Erie, PA within a five hundred foot radius of position 42°08'41" N, 080°06'40" W. [DATUM: NAD 83].

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene

representative may be contacted on 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.

This determination is based on the minimal time that vessels will be restricted from the zone, and the zone is an area 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 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, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in a portion of Presque Isle Bay and Lake Erie, near Erie, PA between 10 p.m. (local) and 10:30 p.m. (local) on July 4, 2007.

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 thirty minutes for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

### 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 the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### 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, Federalism, if it has 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. 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 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.

### 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.

### Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these special local regulations and fishing rights protection need not be incompatible. We have also determined that 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Proposed Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

### 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

### 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 procedure; and related management system 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.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case 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. That paragraph applies because this event establishes a safety zone. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under ADDRESSES.

#### 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, 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 temporary § 165.T09–034 to read as follows:

**§ 165.T09–034 Safety zone; Mercyhurst College “Old Fashion 4th of July”, Presque Isle Bay, Erie, PA.**

(a) *Location.* The following area is a temporary safety zone: All waters of Presque Isle Bay and Lake Erie, from surface to bottom, within a five hundred foot radius of position 42°08'41" N, 080°06'40" W. [DATUM: NAD 83].

(b) *Effective period.* This regulation is effective from 10 p.m. (local) to 10:30 p.m. (local), on July 4, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted on VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: June 11, 2007.

**S.J. Ferguson,**

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

[FR Doc. E7–12141 Filed 6–22–07; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD01–07–031]

**RIN 1625–AA00**

#### Safety Zone; Town of Lynn Fourth of July Fireworks Display, Nahant Bay, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Town of Lynn Fourth of July Fireworks on July 3, 2007, temporarily closing all navigable waters of Nahant Bay within a 500 yard radius of the fireworks barge located at approximate position 42°27'41.2" N, 70°55'6.1" W.

The safety zone is necessary to protect the life and property of the maritime public from the potential hazards posed by a fireworks display. The safety zone temporarily prohibits entry into or movement within this portion of Nahant Bay during the closure period.

**DATES:** This rule is effective from 8:15 p.m. EDT on July 3, 2007 until 9:45 p.m. EDT on July 3, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01–07–031 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Joseph Yonker, Sector Boston, Waterways Management Division, at (617) 223–5007.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory History

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. The fireworks display is scheduled to occur on July 3, 2007, and there is insufficient time to conduct a notice and comment rulemaking. Any delay in the regulation's effective date would be contrary to the public interest because the safety zone is needed to ensure the maritime public is protected from the potential harm associated with a fireworks display.

For the same reasons, the Coast Guard finds, under 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

#### Background and Purpose

This rule establishes a safety zone on the navigable waters of Nahant Bay within a 500 yard radius around the fireworks barge located at approximate position 42°27'41.2" N, 70°55'6.1" W. The safety zone is in effect from 8:15 p.m. EDT until 9:45 p.m. EDT on July 3, 2007.

The safety zone temporarily restricts movement within this portion of Nahant Bay and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the zone during the effective period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to the event. Public notifications will be made prior to the effective period via marine information broadcasts and Local Notice to Mariners.